Volume 28, Number 2
Pages 99–218
January 16, 2003

Matt Blunt

Secretary of State

MISSOURI REGISTER

The *Missouri Register* is published semi-monthly by

SECRETARY OF STATE

MATT BLUNT

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: $56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER
Office of the Secretary of State
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MISSOURI REGISTER

January 16, 2003 Vol. 28 No. 2 **Pages 99–218**

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The rules are codified in the *Code of State Regulations* in this system—

Title	***Code of State Regulations***	**Division**	**Chapter**	**Rule**
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 2—Classification and Pay Plans

EMERGENCY AMENDMENT

1 CSR 20-2.015 Broad Classification Bands for Managers. The Personnel Advisory Board is amending paragraph (6)(B)2.

PURPOSE: This amendment is necessary to allow for consistent application of rules governing layoffs.

*EMERGENCY STATEMENT: This emergency amendment is necessary and justified as meeting a compelling governmental interest. Agencies need as much flexibility and consistency of application as possible when considering layoff implementation for this budget year, as a response to the serious budget reductions currently being imposed on agencies. A proposed amendment to the rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Office of Administration believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed January 2, 2003, effective January 12, 2003, and expires July 10, 2003.*

(6) Separation, Suspension and Demotion. The provisions of 1 CSR 20-3.070 are applicable in the administration of broad classification bands for managers in agencies covered by the merit system provisions of the State Personnel Law, except as specifically outlined in this section, or necessary for implementation.

(B) Demotions and Transfers. An appointing authority may demote an employee in accordance with the following:

1. No demotion for cause shall be made unless the employee to be demoted meets the minimum qualifications for the lower position demoted to, and shall not be made if any regular employee in the affected class and band or range would be laid off by reason of the action; and

2. An appointing authority, upon written request of the regular employee affected, shall demote such employee in lieu of layoff to a position in a lower band in the same class; or shall demote or transfer such employee *[to another class for which the employee meets the qualifications; or]* to an appropriate class and pay range in the same occupational job series; or to a position in which the employee previously has served and has obtained regular status in the division of service involved; even though these actions may result in additional layoffs. **An appointing authority may also, upon written request of the regular employee affected, demote or transfer such employee in lieu of layoff to another class for which the employee meets the qualifications, even if these actions may result in additional layoffs.** In the event of a demotion to a lower band, or a demotion or transfer to a class and pay range in lieu of layoff, an employee shall have his/her name placed on the appropriate register.

*AUTHORITY: section 36.070, RSMo [Supp. 1998] **2000**. Original rule filed March 11, 1999, effective Sept. 30, 1999. Emergency amendment filed Jan. 2, 2003, effective Jan. 12, 2003, expires July 10, 2003. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This emergency amendment amends the high volume adjustment to allow partial year cost reports to be combined to comprise a full year and to include hospice days paid by Medicaid in determination of occupancy.

*EMERGENCY STATEMENT: This emergency amendment is necessary to implement the increased reimbursement to providers of nursing facility services who serve a high volume of Medicaid residents. It must be implemented on a timely basis to ensure that quality nursing facility services continue to be provided to Medicaid patients in nursing facilities. As a result, the Division of Medical Services finds an immediate danger to the public health, safety and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The Division of Medical Services believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed January 3, 2003, effective January 17, 2003, and expires July 15, 2003.*

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(B) Special Per-Diem Rate Adjustments. Special per-diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per-diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent (130%) of the patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per-diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per-diem adjustment is calculated:

120% of median	$6.62
90% of median	$4.97
Difference	$1.65
1/2 the difference	2
Per-diem adjustment	$ .83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per-diem adjustment is calculated:

90% of median	$4.97
120% of median	$6.62
Ancillary per diem	$5.21
Difference	$1.41
1/2 the difference	2
Per-diem adjustment	$ .71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and meets the following criteria shall receive a per-diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per-Diem Rate	Incentive
< 60%	$0.00
> or = 60% but < 65%	$1.15
> or = 65% but < 70%	$1.30
> or = 70% but < 75%	$1.45
> or = 75% but < or 80% =	$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	$0.00
> or = 75% but < 80%	$0.15
> or = 80% but < 85%	$0.30
> or = 85% but < 90%	$0.45
> or = 90% but < 95%	$0.60
> or = 95%	$0.75

4. 1967 *Life Safety Code* (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraph (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and

the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per-diem adjustment of $3.20. The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per-diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing facilities with collective bargaining agreements shall provide such agreements to the division.

10. High Volume Adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per-diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calendar year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per-diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) State owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per-diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. Effective July 1, 2002, the adjustment shall not accumulate from year to year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

D. Second Tier High Volume Adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per-diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration

cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per-diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, of the sum of the per-diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. The adjustment for state fiscal year 2003 shall be eighteen dollars and fifty-six cents ($18.56) per Medicaid day.

(a) The adjustment shall be distributed based on a quarterly amount, in addition to per-diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(b) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

(III) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

E. High volume adjustment for nursing facilities without a full twelve (12)-month cost report. Effective for dates of service on or after January 17, 2003, the full twelve (12)-month cost report requirement set forth in (13)(B)10.A.(I) shall include nursing facilities that have on file at the division two (2) partial year cost reports that when combined cover a full twelve (12)-month period.

F. Medicaid hospice days to be included in determination of Medicaid occupancy. Effective for dates of service on or after January 17, 2003, the Medicaid patient days used to determine the Medicaid occupancy requirement set forth in (13)(B)10.A.(II) shall be calculated by adding the days paid for by the Medicaid nursing facility program plus the days paid for by the Medicaid hospice program from the cost report identified in part (13)(B)10.A.(I).

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars ($85).

*AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Jan. 3, 2003, effective Jan. 17, 2003, expires July 15, 2003. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.300 Definitions for the Certificate of Need Process. This rule defined the terms used in the Certificate of Need (CON) review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

*AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the **Code of State Regulations**. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.300 Definitions for the Certificate of Need Process

PURPOSE: This rule defines the terms used in the Certificate of Need (CON) review process.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

(1) Applicant means all owner(s) and operator(s) of any new institutional health service.

(2) By or on behalf of a health care facility includes any expenditures made by the facility itself as well as capital expenditures made by other persons that assist the facility in offering services to its patients/residents.

(3) Cost means:

(A) Price paid or to be paid by the applicant for a new institutional health service to acquire, purchase or develop a health care facility or major medical equipment; or

(B) Fair market value of the proposed health care facility or major medical equipment as determined by the current selling price at the date of the application as quoted by builders or architects for similar facilities or normal suppliers of the requested equipment.

(C) For the development of a new health care facility to be licensed under Chapter 198, RSMo, on the campus of an existing health care facility, but of a different licensure category, where support space and services such as administration, dining and laundry would be acquired from the existing facility, the following specific proportional and new costs shall apply:

1. If existing licensed bed space is to be utilized for the new facility, the cost (f) shall be determined by using the formula [((a ÷ b) × c) + d + e = f] in the following manner:

A. Divide the number of beds in the proposed new facility (a), by the total number of beds in the existing facility (b);

B. Multiply the above result by the total appraised value of the existing facility, including land, building, equipment and other improvements (c); and

C. Add the above result to all additional renovations (d), and/or new equipment (e), needed for the proposed new facility; or

2. If a newly constructed unit is to be added to an existing licensed facility, cost (f) shall be determined by using the formula [((a ÷ (a + b)) × c) + d + e = f] in the following manner:

A. Divide the number of beds in the proposed new facility (a), by the total number of beds in the existing facility (b) added to the proposed new facility (a);

B. Multiply the above result by the total appraised value of the existing support space and equipment (c); and

C. Add the above result to all new capital costs (d), and/or new equipment costs (e) to be incurred.

(4) Construction of a new hospital means the establishment of a newly-licensed facility at a specific location under the Hospital Licensing Law, section 197.020.2, RSMo, as the result of building, renovation, modernization, and/or conversion of any structure not licensed as a hospital.

(5) Expedited application means a shorter than full application and review period as defined in 19 CSR 60-50.420 and 19 CSR 60-50.430 for any long-term care expansion or replacement as defined in sections 197.318.8–10, RSMo, long-term care renovation and modernization, or the replacement of any major medical equipment as defined in section (14) of this rule which holds a Certificate of Need (CON) previously granted by the Missouri Health Facilities Review Committee (Committee). Applications for replacement of major medical equipment not previously approved by the Committee should apply for a full review.

(6) Full review means the complete analytical period for applications as described in 19 CSR 60-50.420 and 19 CSR 60-50.430 for the development of health care facilities and acquisition of major medical equipment.

(7) Generally accepted accounting principles pertaining to capital expenditures include, but are not limited to:

(A) Expenditures related to acquisition or construction of capital assets;

(B) Capital assets are investments in property, plant and equipment used for the production of other goods and services approved by the Committee; and

(C) Land is not considered a capital asset until actually converted for that purpose with commencement of aboveground construction approved by the Committee.

(8) Health care facility means those described in section 197.366, RSMo, which replaces section 197.305.7, RSMo.

(9) Health care facility expenditure includes the capital value of new construction or renovation costs, architectural/engineering fees, equipment not in the construction contract, land acquisition costs, consultants'/legal fees, interest during construction, predevelopment costs as defined in section 197.305(13), RSMo, in excess of one hundred fifty thousand dollars ($150,000), any existing land and building converted to medical use for the first time, and any other capitalizable costs as listed on the "Proposed Project Budget" form MO 580-1863.

(10) Health maintenance organizations means entities as defined in section 354.400(10), RSMo, except for activities directly related to the provision of insurance only.

(11) Interested party means any licensed health care provider or other affected person who has expressed an interest in the CON process or a CON application.

(12) Long-Term Acute Care (LTAC) hospital means any facility licensed under Chapter 197, RSMo, meeting the requirements described in 42 CFR section 412.23(e).

(13) Long-term care beds include:

(A) Beds in a facility licensed in accordance with Chapter 198, RSMo, including residential care facility (RCF) I and II, intermediate care facility (ICF) and skilled nursing facility (SNF);

(B) Beds designated as ICF or SNF in a Chapter 197, RSMo, licensed hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo; or

(C) Beds in a LTAC hospital meeting the requirements described in 42 CFR section 412.23(e).

(14) Major medical equipment means any piece of equipment and collection of functionally related devices acquired to operate the equipment and additional related costs such as software, shielding, and installation, with an aggregate cost of one million dollars ($1,000,000) or more, when the equipment is intended to provide the following services:

(A) Cardiac Catheterization;
(B) CT (Computed Tomography);
(C) Gamma Knife;
(D) Hemodialysis;
(E) Lithotripsy;
(F) MRI (Magnetic Resonance Imaging);
(G) PET (Positron Emission Tomography);
(H) Linear Accelerator;
(I) Open Heart Surgery;
(J) EBCT (Electron Beam Computed Tomography);
(K) PET/CT (Positron Emission Tomography/Computed Tomography); or
(L) Evolving Technology.

(15) Nonsubstantive project includes, but is not limited to, at least one (1) of the following situations:

(A) An expenditure which is required solely to meet federal or state requirements or involves predevelopment costs or the development of a health maintenance organization;
(B) The construction or modification of nonpatient care services, including parking facilities, sprinkler systems, heating or air-conditioning equipment, fire doors, food service equipment, building maintenance, administrative equipment, telephone systems, energy conservation measures, land acquisition, medical office buildings, and other projects or functions of a similar nature; or
(C) Expenditures for construction, equipment, or both, due to an act of God or a normal consequence of maintenance, but not replacement, of health care facilities, beds, or equipment.

(16) Offer, when used in connection with health services, means that the applicant asserts having the capability and the means to provide and operate the specified health services.

(17) Predevelopment costs mean expenditures as defined in section 197.305(13), RSMo, including consulting, legal, architectural, engineering, financial and other activities directly related to the proposed project, but excluding the application fee for submission of the application for the proposed project.

(18) Related organization means an organization that is associated or affiliated with, has control over or is controlled by, or has any direct financial interest in, the organization applying for a project including, without limitation, an underwriter, guarantor, parent organization, joint venturer, partner or general partner.

(19) Service area means:

(A) A fifteen (15)-mile radius for long-term care bed proposals; or
(B) A geographic region appropriate for any other proposed service, documented by the applicant and approved by the Committee.

(20) The most current version of Form MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.400 Letter of Intent Process. This rule delineated the process for submitting a Letter of Intent to begin the Certificate of Need (CON) review process and outlined the projects subject to CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.400 Letter of Intent Process

PURPOSE: This rule delineates the process for submitting a Letter of Intent to begin the Certificate of Need (CON) review process and outlines the projects subject to CON review.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

(1) Applicants shall submit a Letter of Intent (LOI) package to begin the Certificate of Need (CON) review process at least thirty (30) days prior to the submission of the CON application and will remain valid in accordance with the following time frames:

(A) For full reviews, expedited equipment replacements, expedited long-term care (LTC) renovation or modernization reviews and expedited LTC facility replacement reviews, a LOI is valid for six (6) months;

(B) For expedited LTC bed expansion reviews in accordance with section 197.318.8, RSMo, a LOI is valid for twenty-four (24) months; and

(C) For non-applicability reviews, a LOI is valid for six (6) months.

(2) Once filed, a LOI may be amended, except for project address, not later than ten (10) days in advance of the CON application filing, or it may be withdrawn at any time without prejudice.

(3) A LTC bed expansion or replacement as defined in these rules includes all of the provisions pursuant to section 197.318.8 through 197.318.10, RSMo, requiring a CON application, but allowing shortened information requirements and review time frames. When a LOI for a LTC bed expansion, except replacement(s), is filed, the Certificate of Need Program (CONP) staff shall immediately request certification for that facility of average licensed bed occupancy and final Class 1 patient care deficiencies for the most recent six (6) consecutive calendar quarters by the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, through a LTC Facility Expansion Certification (Form MO 580-2351) to verify compliance with occupancy and deficiency requirements pursuant to section 197.318.8, RSMo. Occupancy data shall be taken from the DHSL's most recently published Six Quarter Survey of Hospital and Nursing Home (or Residential Care Facility) Licensed Bed Utilization reports. For LTC bed expansions or replacements, the sellers and purchasers shall be defined as the owner(s) and operator(s) of the respective facilities, which includes building, land, and license. On the Purchase Agreement (Form MO 580-2352), both the owner(s) and operator(s) of the purchasing and selling facilities should sign.

(4) The CONP staff, as an agent of the Missouri Health Facilities Review Committee (Committee), will review LOIs according to the following provisions:

(A) Major medical equipment is reviewed as an expenditure on the basis of cost, regardless of owners or operators, or location (mobile or stationary);

(B) The CONP staff shall test the LOI for applicability in accordance with statutory provisions for expenditure minimums, exemptions, and exceptions;

(C) If the test verifies that a statutory exception or exemption is met on a proposed project, or is below all applicable expenditure minimums, the Committee chair may issue a Non-Applicability CON letter indicating the application review process is complete; otherwise, the CONP staff shall add the proposal to a list of Non-Applicability proposals to be considered at the next regularly scheduled Committee meeting;

(D) If an exception or exemption is not met, and if the proposal is above any applicable expenditure minimum, then a CON application will be required for the proposed project;

(E) A Non-Applicability CON letter will be valid subject to the following conditions:

1. Any change in the project scope, including change in type of service, cost, operator, ownership, or site, could void the effectiveness of the letter and require a new review; and

2. Final audited project costs must be provided on a Periodic Progress Report (Form MO 580-1871);

(F) A CON application must be made if:

1. The project involves the development of a new hospital costing one million dollars ($1,000,000) or more, except for a facility licensed under Chapter 197, RSMo, meeting the requirements described in 42 CFR, section 412.23(e);

2. The project involves the acquisition or replacement of major medical equipment in any setting not licensed under Chapter 198, RSMo, costing one million dollars ($1,000,000) or more;

3. The project involves the acquisition or replacement of major medical equipment for a health care facility licensed under Chapter 198, RSMo, costing four hundred thousand dollars ($400,000) or more;

4. The project involves the acquisition of any equipment or beds in a long-term acute care hospital meeting the requirements found in 42 CFR section 412.23(e) at any cost;

5. The project involves a capital expenditure for renovation, modernization or replacement, but not additional beds, by or on behalf of an existing health care facility licensed under Chapter 198, RSMo, costing six hundred thousand dollars ($600,000) or more; or

6. The project involves either additional LTC (licensed or certified residential care facility I or II, intermediate care facility, or skilled nursing facility) beds or LTC bed expansions or replacements licensed under Chapter 198, RSMo, as defined in section (3) above of this rule, costing six hundred thousand dollars ($600,000) or more; or

7. The project involves the expansion of an existing health care facility as described in subdivisions (1) and (2) of section 197.366, RSMo, that either:

A. Costs six hundred thousand dollars ($600,000) or more; or

B. Exceeds ten (10) beds or ten percent (10%) of that facility's existing licensed capacity, whichever is less; and

(G) An exception may exist if the LOI test verifies that the proposed new long-term care beds (excluding LTAC beds) cost less than six hundred thousand dollars ($600,000) or do not exceed ten (10) beds or ten percent (10%) of that facility's existing licensed capacity, whichever is less, and the proposed beds are in the same licensure category as the existing facility's license.

(5) For an LTC bed expansion proposal pursuant to section 197.318.8(1)(e), RSMo, the CONP staff shall request occupancy verification by the DHSL who shall also provide a copy to the applicant.

(6) Nonsubstantive projects are waived from review by the authority of section 197.330.1(8), RSMo, and any projects seeking such a determination shall submit information through the LOI process; those meeting the nonsubstantive definition shall be posted for review on the CON website at least twenty (20) days in advance of the Committee meeting when they are scheduled to be confirmed by the Committee.

(7) The most current version of forms MO 580-2351, MO 580-2352, and MO 580-1871 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.410 Letter of Intent Package. This rule provided the information requirements and the details of how to complete the Letter of Intent package to begin the Certificate of Need (CON) review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.410 Letter of Intent Package

PURPOSE: This rule provides the information requirements and the details of how to complete the Letter of Intent package to begin the Certificate of Need (CON) review process.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the

scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

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(1) The Letter of Intent (LOI) (Form MO 580-1860) shall be completed as follows:

(A) Project Information: sufficient information to identify the intended service, such as construction, renovation, new or replacement equipment, and address or plat map identifying a specific site rather than a general area (county designation alone is not sufficient);

(B) Applicant Identification: the full legal name of all owner(s) and operator(s) which compose the applicant(s) who, singly or jointly, propose to develop, offer, lease or operate a new institutional health service within Missouri; provide the corporate entity, not individual names, of the corporate board of directors or the facility administrator;

(C) Type of Review: the applicant shall indicate if the review is for a full review, expedited review or a non-applicability review;

(D) Project Description: information which provides details of the number of beds to be added, deleted, or replaced, square footage of new construction and/or renovation, services affected and equipment to be acquired. If a replacement project, information which provides details of the facilities or equipment to be replaced, including name, location, distance from the current site, and its final disposition;

(E) Estimated Project Cost: total proposed expenditures necessary to achieve application's objectives—not required for long-term care (LTC) bed expansions pursuant to section 197.318.8(1), RSMo;

(F) Authorized Contact Person Identification: the full name, title, address (including association), telephone number, e-mail, and fax number; and

(G) Applicability: Item 7 of the LOI must be filled out by applicants requesting a non-applicability review to provide the reason and rationale for the exemption or exception being sought.

(2) If a non-applicability review is sought, applicants shall submit the following additional information:

(A) Proposed Expenditures (Form MO 580-2375) including information which details all methods and assumptions used to estimate project costs;

(B) Schematic drawings and evidence of site control, with appropriate documentation; and

(C) In addition to the above information, for exceptions or exemptions, documentation of other provisions in compliance with the Certificate of Need (CON) statute, as described in sections (3) through (6) below of this rule.

(3) If an exemption is sought for a RCF I or II pursuant to section 197.312, RSMo, applicants shall submit documentation that this facility had previously been owned or operated for or, on behalf of St. Louis City.

(4) If an exemption is sought pursuant to section 197.314(1), RSMo, for a sixty (60)-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand (350,000) and which district also has within its boundaries a skilled nursing facility (SNF), applicants shall submit documentation that the health care facility would meet all of these provisions.

(5) The LOI must have an original signature for the contact person until the Certificate of Need Program (CONP), when technically ready, shall allow for submission of electronic signatures.

(6) The most current version of forms MO 580-1860 and MO 580-2375 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

*AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the **Code of State Regulations**. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.420 Application Process. This rule delineated the process for submitting a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians,

investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

*AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the **Code of State Regulations**. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the **Missouri Register**.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.420 Review Process

PURPOSE: This rule delineates the process for submitting a Certificate of Need (CON) application for a CON review.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

(1) The Certificate of Need (CON) filing deadlines are as follows:

(A) For full applications, at least seventy-one (71) days prior to each Missouri Health Facilities Review Committee (Committee) meeting;

(B) For expedited equipment replacement applications, expedited long-term care (LTC) facility renovation or modernization applications, and expedited LTC bed expansions and replacements pursuant to section 197.318.8 through 197.318.10, RSMo, the tenth day of each month, or the next business day thereafter if that day is a holiday or weekend;

(C) For non-applicability reviews, the Letter of Intent (LOI) filing may occur at any time.

(2) A CON application filing that does not substantially conform with the LOI, including any change in owner(s), operator(s), scope of services, or location, shall not be considered a CON application and shall be subject to the following provisions:

(A) The Certificate of Need Program (CONP) staff shall return any nonconforming submission; or

(B) The Committee may issue an automatic denial unless the applicant withdraws the attempted application.

(3) All filings must occur at the principal office of the Committee during regular business hours. The CONP staff, as an agent of the Committee, shall provide notification of applications received through publication of the Application Review Schedule (schedule), as follows:

(A) For full applications and expedited applications, the schedule shall include the filing date of the application, a brief description of the proposed service, the time and place for filing comments and requests for a public hearing, and the tentative date of the meeting at which the full application is scheduled for review or tentative decision date for expedited applications. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. A press release about the CON application schedule shall be sent by e-mail to all legislators, affected persons and all newspapers of general circulation in Missouri as supplied by the Office of Public Information, Department of Health and Senior Services; and
2. The schedule shall be published on the CON website.

(B) For non-applicability reviews, the listing of non-applicability letters to be confirmed shall be published on the CON website at least twenty (20) days prior to each scheduled meeting of the Committee where confirmation is to take place.

(4) The CONP staff shall review CON applications relative to the Criteria and Standards in the order filed.

(5) The CONP staff shall notify the applicant in writing regarding the completeness of a full CON application within fifteen (15) calendar days of filing or within five (5) working days for an expedited application.

(6) Verbal information or testimony shall not be considered part of the application.

(7) Subject to statutory time constraints, the CONP staff shall send its written analysis to the Committee as follows:

(A) For full CON applications, the CONP staff shall send the analysis twenty (20) days in advance of the first Committee meeting following the seventieth (70th) day after the CON application is filed.

The written analysis of the CONP staff shall be sent to the applicant no less than fifteen (15) days before the meeting.

(B) For expedited applications which meet all statutory and rules requirements and which have no opposition, the CONP staff shall send its written analysis to the Committee and the applicant within two (2) working days following the expiration of the thirty (30)-day public notice waiting period or the date upon which any required additional information is received, whichever is later.

(C) For expedited applications which do not meet all statutory and rules requirements or those which have opposition, they will be considered at the earliest scheduled Committee meeting where the written analysis by the CONP staff can be sent to the Committee and the applicant at least seven (7) days in advance.

(8) See rule 19 CSR 60-50.600 for a description of the CON decision process.

(9) An applicant may withdraw an application without prejudice by written notice at any time prior to the Committee's decision. Later submission of the same application or an amended application shall be handled as a new application with a new fee.

(10) In addition to using the Community Need Criteria and Standards as guidelines, the Committee may also consider other factors to include, but not be limited to, the number of patients requiring treatment, the changing complexity of treatment, unique obstacles to access, competitive financial considerations, or the specialized nature of the service.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.430 Application Package. This rule provided the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.430 Application Package

PURPOSE: This rule provides the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that

their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

(1) A Certificate of Need (CON) application package shall be accompanied by an application fee which shall be a nonrefundable minimum amount of one thousand dollars ($1,000) or one-tenth of one percent (0.1%), which may be rounded up to the nearest dollar, of the total project cost, whichever is greater, made payable to the "Missouri Health Facilities Review Committee."

(2) A written application package consisting of an original and eleven (11) bound copies (comb or three (3)-ring binder) shall be prepared and organized as follows:

(A) The CON Applicant's Completeness Checklists and Table of Contents should be used as follows:

1. Include at the front of the application;

2. Check the appropriate "done" boxes to assure completeness of the application;

3. Number all pages of the application sequentially and indicate the page numbers in the appropriate blanks;

4. Check the appropriate "n/a" box if an item in the Review Criteria is "not applicable" to the proposal; and

5. Restate (preferably in bold type) and answer all items in the Review Criteria.

(B) The application package should use one of the following CON Applicant's Completeness Checklists and Table of Contents appropriate to the proposed project, as follows:

1. New Hospital Application (Form MO 580-2501);

2. New or Additional Long-Term Care (LTC) Beds Application (Form MO 580-2502);

3. New or Additional Long-Term Acute Care (LTAC) Beds Application (use Form MO 580-2502);

4. New or Additional Equipment Application (Form MO 580-2503);

5. Expedited LTC Bed Replacement/Expansion Application (Form MO 580-2504);

6. Expedited LTC Renovation/Modernization Application (Form MO 580-2505); or

7. Expedited Equipment Replacement Application (Form MO 580-2506).

(C) The application should be formatted into dividers using the following outline:

1. Divider I. Application Summary;

2. Divider II. Proposal Description;

3. Divider III. Community Need Criteria and Standards; and

4. Divider IV. Financial Feasibility (only if required for full applications).

(D) Support Information should be included at the end of each divider section to which it pertains, and should be referenced in the divider narrative. For applicants anticipating having multiple applications in a year, master file copies of such things as maps, population data (if applicable), board memberships, IRS Form 990, or audited financial statements may be submitted once, and then referred to in subsequent applications, as long as the information remains current.

(E) The application package should document the need or meet the additional information requirements in 19 CSR 60-50.450(4)–(6) for the proposal by addressing the applicable Community Need Criteria and Standards using the standards in 19 CSR 60-50.440 through 19 CSR 60-50.460 plus providing additional documentation to substantiate why any proposed alternative Criteria and Standards should be used.

(3) An Application Summary shall be composed of the completed forms in the following order:

(A) Applicant Identification and Certification (Form MO 580-1861). Additional specific information about board membership may be requested, if needed;

(B) A completed Representative Registration (Form MO 580-1869) for the contact person and any others as required by section 197.326(1), RSMo; and

(C) A detailed Proposed Project Budget (Form MO 580-1863), with an attachment which details how each line item was determined including all methods and assumptions used.

(4) The Proposal Description shall include documents which:

(A) Provide a complete detailed description and scope of the project, and identify all the institutional services or programs which will be directly affected by this proposal;

(B) Describe the developmental details including:

1. A legible city or county map showing the exact location of the facility or health service, and a copy of the site plan showing the relation of the project to existing structures and boundaries;

2. Preliminary schematics for the project that specify the functional assignment of all space which will fit on an eight and one-half inch by eleven inch (8 1/2" × 11") format (not required for replacement equipment projects). The Certificate of Need Program (CONP) staff may request submission of an electronic version of the schematics, when appropriate. The function for each space, before and after construction or renovation, shall be clearly identified and all space shall be assigned;

3. Evidence of submission of architectural plans to the Division of Health Standards and Licensure, Department of Health and Senior Services, for long-term care projects and other facilities (not required for replacement equipment projects);

4. For long-term care proposals, existing and proposed gross square footage for the entire facility and for each institutional service or program directly affected by the project. If the project involves relocation, identify what will go into vacated space;

5. Documentation of ownership of the project site, or that the site is available through a signed option to purchase or lease; and

6. Proposals which include major and other medical equipment should include an equipment list with prices and documentation in the form of bid quotes, purchase orders, catalog prices, or other sources to substantiate the proposed equipment costs;

(C) Proposals for new hospitals, new or additional long-term care (LTC) beds, or new major medical equipment must define the community to be served:

1. Describe the service area(s) population using year 2005 populations and projections which are consistent with those provided by the Bureau of Health Data Analysis which can be obtained by contacting:

Chief, Bureau of Health Data Analysis
Center for Health Information Management and Evaluation (CHIME)
Department of Health and Senior Services
PO Box 570, Jefferson City, MO 65102
Telephone: (573) 751-6278

There will be a charge for any of the information requested, and seven to fourteen (7–14) days should be allowed for a response from the CHIME. Information requests should be made to CHIME such that the response is received at least two (2) weeks before it is needed for incorporation into the CON application; and

2. Use the maps and population data received from CHIME with the CON Applicant's Population Determination Method to determine the estimated population, as follows:

A. Utilize all of the population for zip codes entirely within the fifteen (15)-mile radius for LTC beds or geographic service area for hospitals and major medical equipment;

B. Reference a state highway map (or a map of greater detail) to verify population centers (see Bureau of Health Data Analysis information) within each zip code overlapped by the fifteen (15)-mile radius or geographic service area;

C. Categorize population centers as either "in" or "out" of the fifteen (15)-mile radius or geographic service area and remove the population data from each affected zip code categorized as "out";

D. Estimate, to the nearest ten percent (10%), the portion of the zip code area that is within the fifteen (15)-mile radius or geographic service area by "eyeballing" the portion of the area in the radius (if less than five percent (5%), exclude the entire zip code);

E. Multiply the remaining zip code population (total population less the population centers) by the percentage determined in (4)(C)2.D. (due to numerous complexities, population centers will not be utilized to adjust overlapped zip code populations in Jackson, St. Louis, and St. Charles counties or St. Louis City; instead, the total population within the zip code will be considered uniform and multiplied by the percentage determined in (4)(C)2.D.);

F. Add back the population center(s) "inside" the radius or region for zip codes overlapped; and

G. The sum of the estimated zip codes, plus those entirely within the radius, will equal the total population within the fifteen (15)-mile radius or geographic service area;

3. Provide other statistics, such as studies, patient origin or discharge data, Hospital Industry Data Institute's information, or consultants' reports, to document the size and validity of any proposed user-defined "geographic service area";

(D) Identify specific community problems or unmet needs which the proposed or expanded service is designed to remedy or meet;

(E) Provide historical utilization for each existing service affected by the proposal for each of the past three (3) years;

(F) Provide utilization projections through at least three (3) years beyond the completion of the project for all proposed and existing services directly affected by the project;

(G) If an alternative methodology is added, specify the method used to make need forecasts and describe in detail whether projected utilizations will vary from past trends; and

(H) Provide the current and proposed number of licensed beds by type for projects which would result in a change in the licensed bed complement of the LTC facility.

(5) Document that consumer needs and preferences have been included in planning this project. Describe how consumers have had an opportunity to provide input into this specific project, and include in this section all petitions, letters of acknowledgement, support or opposition received.

(6) The most current version of forms MO 580-2501, MO 580-2502, MO 580-2503, MO 580-2504, MO 580-2505, MO 580-1861, MO 580-1869 and MO 580-1863 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.450 Criteria and Standards for Long-Term Care. This rule outlined the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.450 Criteria and Standards for Long-Term Care

PURPOSE: This rule outlines the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

*This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri** and **United States Constitutions**. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

(1) For purposes of determining need and evaluating area occupancy, residential care facility (RCF) I and RCF II shall be one separate classification and intermediate care facility (ICF) and skilled nursing facility (SNF) shall be another separate classification. For purposes of defining facilities and determining need, RCF I and RCF II, ICF and SNF, and long-term acute care (LTAC) shall be recognized as three (3) separate classifications, consistent with the definition of health care facility in section 197.366 (1), (2), and (3), RSMo.

(2) The following population-based long-term care bed need methodology for the fifteen (15)-mile radius shall be used to determine the maximum size of the need:

(A) Approval of additional ICF/SNF beds will be based on a service area need determined to be fifty-three (53) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of ICF/SNF beds shown in the Inventory of Hospital and Nursing Home ICF/SNF Beds as provided by the Certificate of Need Program (CONP) which includes licensed beds, Certificate of Need (CON)-approved beds, and non-applicability beds;

(B) Approval of additional RCF beds will be based on a service area need determined to be sixteen (16) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of RCF beds shown in the Inventory of Residential Care Facility Beds as provided by the CONP which includes licensed beds and CON-approved beds, and non-applicability beds.

(3) The minimum annual average utilization for all other long-term care beds within a fifteen (15)-mile radius of the proposed site should have achieved at least eighty percent (80%) for the preceding six (6) consecutive calendar quarters at the time of application filing as reported in the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, Six-Quarter Survey of Hospital and Nursing Home (or Residential Care Facility) Licensed and Available Bed Utilization and certified through a written finding by the DHSL.

(4) Replacement Chapter 198, RSMo, beds qualify shortened information requirements and review time frames if an applicant proposes to:

(A) Relocate RCF beds within a six (6)-mile radius pursuant to section 197.318.8(4), RSMo;

(B) Replace one-half (1/2) of its licensed beds within a thirty (30)-mile radius pursuant to section 197.318.9, RSMo; or

(C) Replace a facility in its entirety within a fifteen (15)-mile radius pursuant to section 197.318.10, RSMo, under the following conditions:

1. The existing facility's beds shall be replaced at only one (1) site;

2. The existing facility and the proposed facility shall have the same owner(s), regardless of corporate structure; and

3. The owner(s) shall stipulate in writing that the existing facility's beds to be replaced will not be used later to provide long-term care services; or if the facility is operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

(5) LTC bed expansions involving a Chapter 198, RSMo, facility qualify for shortened information requirements and review time frames, and applicants shall also submit the following information:

(A) If an effort to purchase has been successful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities, and a copy of the selling facility's reissued license verifying the surrender of the beds sold; or

(B) If an effort to purchase has been unsuccessful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities which documents the "effort(s) to purchase" LTC beds.

(6) An exception to the CON application filing fee will be recognized for any proposed facility which is designed and operated exclusively for persons with acquired human immunodeficiency syndrome (AIDS).

(7) Any newly-licensed Chapter 198, RSMo, facility established as a result of the Alzheimer's and dementia demonstration projects pursuant to Chapter 198, RSMo, or aging-in-place pilot projects pursuant to Chapter 198, RSMo, as implemented by the DHSL, may be licensed by the DHSL until the completion of each project. If a demonstration or pilot project receives a successful evaluation from the DHSL and a qualified Missouri school or university, and meets the DHSL standards for licensure, this will ensure continued licensure without a new CON.

(8) For LTC renovation or modernization projects which do not include increasing the number of beds, the applicant should document the following, if applicable:

(A) The proposed project is needed to comply with current facility code requirements of local, state or federal governments;

(B) The proposed project is needed to meet requirements for licensure, certification or accreditation, which if not undertaken, could result in a loss of accreditation or certification;

(C) Operational efficiencies will be attained through reconfiguration of space and functions;

(D) The methodologies used for determining need;

(E) The rationale for the reallocation of space and functions; and

(F) The benefits to the facility because of its age or condition.

(9) The most current version of Form MO 580-2352 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RESCISSION

19 CSR 60-50.700 Post-Decision Activity. This rule described the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

EMERGENCY STATEMENT: This emergency rescission is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rescission because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rescission to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rescission limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rescission is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rescission was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.*

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rescission covering this same material is published in this issue of the* ***Missouri Register****.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

EMERGENCY RULE

19 CSR 60-50.700 Post-Decision Activity

PURPOSE: This rule describes the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

EMERGENCY STATEMENT: This emergency rule is necessary to preserve a compelling government interest in health care cost containment. It requires rewriting the CON Rules in order to implement the January 1, 2003, effective date of the long-term care sunset provisions in sections 197.305, 197.317 and 197.318, RSMo. The CON statutes, sections 197.300 to 197.366, RSMo, were enacted to ensure the preservation of health care access, the prevention of unnecessary duplication, the containment of health care costs, and the reasonable distribution of health services in Missouri.

Therefore, the Missouri Health Facilities Review Committee (Committee) files this emergency rule because it is necessary for the immediate preservation of the public health, safety, and welfare and to ensure health care access at a reasonable cost. The sunset provisions of sections 197.305, 197.317 and 197.318, RSMo, changes the scope of work and the manner in which the Committee conducts the review process for CON applications by eliminating the minimum occupancy and zero expenditure requirements for review of long-term care facilities.

The Committee believes this emergency rule to be fair to all interested parties under these circumstances so that the Committee may give clear guidance to health care facilities, physicians, investors, and other prospective applicants for their planning purposes. The Committee also wishes to reduce applicant risks of incurring substantial capital expenditures without a CON, only to find later that their projects may have been contrary to state law, which would result in the loss of their capital investments with no redress possible.

This emergency rule limits its scope to the circumstances creating the emergency and complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions****. The Committee finds that an emergency rule is necessary to preserve health care access, allow health care providers to implement the sunset provisions of sections*

197.305, 197.317 and 197.318, RSMo, process applications, and prevent the immediate danger to the public health, safety, and welfare of the citizens of Missouri. This emergency rule was filed on December 16, 2002, to become effective on January 1, 2003, and will expire on June 29, 2003.

(1) Applicants who have been granted a Certificate of Need (CON) or a Non-Applicability CON letter shall file reports with the Missouri Health Facilities Review Committee (Committee), using Periodic Progress Report (Form MO 580-1871). A report shall be filed by the end of each six (6)-month period after CON approval, or issuance of a Non-Applicability CON letter, until project construction and/or expenditures are complete. All Periodic Progress Reports must contain a complete and accurate accounting of all expenditures for the report period.

(2) Applicants who have been granted a CON and fail to incur a capital expenditure within six (6) months may request an extension of six (6) months by submitting a letter to the Committee outlining the reasons for the failure, with a listing of the actions to be taken within the requested extension period to insure compliance. The Certificate of Need Program (CONP) staff on behalf of the Committee will analyze the request and grant an extension, if appropriate. Applicants who request additional extensions must provide additional financial information or other information, if requested by the CONP staff.

(3) For those long-term care proposals receiving a CON in 2003 for which no construction can begin prior to January 1, 2004, such proposals shall not be subject to forfeiture until July 1, 2004, at which time reporting requirements shall commence. Applicants may request an extension of six (6) months for such proposals.

(4) A Non-Applicability CON letter is valid for six (6) months from the date of issuance. Failure to incur a capital expenditure or purchase the proposed equipment within that time frame shall result in the Non-Applicability CON letter becoming null and void. The applicant may request one (1) six (6)-month extension unless otherwise constrained by statutory changes.

(5) A CON shall be subject to forfeiture for failure to:

(A) Incur a project-specific capital expenditure within twelve (12) months after the date the CON was issued through initiation of project above-ground construction or lease/purchase of the proposed equipment since a capital expenditure, according to generally accepted accounting principles, must be applied to a capital asset; or

(B) File the required Periodic Progress Report.

(6) If the CONP staff finds that a CON may be subject to forfeiture—

(A) Not less than thirty (30) calendar days prior to a Committee meeting, the CONP shall notify the applicant in writing of the possible forfeiture, the reasons for it, and its placement on the Committee agenda for action; and

(B) After receipt of the notice of possible forfeiture, the applicant may submit information to the Committee within ten (10) calendar days to show compliance with this rule or other good cause as to why the CON shall not be forfeited.

(7) If the Committee forfeits a CON or a Non-Applicability CON letter becomes null and void, CONP staff shall notify all affected state agencies of this action.

(8) Cost overrun review procedures implement the CON statute section 197.315.7, RSMo. Immediately upon discovery that a project's actual costs would exceed approved project costs by more than ten percent (10%), an applicant shall apply for approval of the cost variance. A nonrefundable fee in the amount of one-tenth of one percent (0.1%) of the additional project cost above the approved amount made payable to "Missouri Health Facilities Review Committee" shall be required. The original and eleven (11) copies of the information requirements for a cost overrun review are required as follows:

(A) Amount and justification for cost overrun shall document—

1. Why and how the approved project costs would be exceeded, including a detailed listing of the areas involved;

2. Any changes that have occurred in the scope of the project as originally approved; and

3. The alternatives to incurring this overrun that were considered and why this particular approach was selected.

(B) Provide a Proposed Project Budget (Form MO 580-1863).

(9) At any time during the process from Letter of Intent to project completion, the applicant is responsible for notifying the Committee of any change in the designated contact person. If a change is necessary, the applicant must file a Contact Person Correction (Form MO 580-1870).

(10) The most current version of forms MO 580-1871, MO 580-1863, and MO 580-1870 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. A proposed rule covering this same material is published in this issue of the* ***Missouri Register****.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

EMERGENCY AMENDMENT

22 CSR 10-2.010 Definitions. The board is amending section (1).

PURPOSE: This amendment includes changes in the definitions made by the board of trustees regarding the key terms within the Missouri Consolidated Health Care Plan.

EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20,*

2002, becomes effective January 1, 2003, and expires on June 29, 2003.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) When used in *[this]* **these rules or the** plan document, these words and phrases have the meaning—

(F) Benefits—Amounts payable by the plan as determined by the schedule of benefits and their limitations and exclusions *[(22 CSR 10-2.040), (22 CSR 10-2.045), (22 CSR 10-2.050), (22 CSR 10-2.055), (22 CSR 10-2.060), (22 CSR 10-2.063), (22 CSR 10-2.064), (22 CSR 10-2.065), and (22 CSR 10-2.066)]* as interpreted by the plan administrator;

(H) Claims administrator—An organization or group responsible for the processing of claims and associated services for the **plan's self-insured benefit programs and** preferred provider organization (PPO) *[and co-pay plans]*;

(N) Dependents—The lawful spouse of the employee, the employee's unemancipated child(ren) and certain survivors of employees, as provided in *[this]* **the** plan document **and these rules**, for whom application has been made and has been accepted for participation in the plan;

(O) Eligibility date—Refer to 22 CSR 10-2.020 for effective date provisions.

1. Newly-hired employees and their eligible dependents, or employees rehired after their participation terminates and their eligible dependents, are eligible to participate in the plan on the first day of the month following the employee's date of employment or reemployment.

2. Employees transferred from a department or other public entity with coverage under another medical care plan into a department or other public entity covered by this plan and their eligible dependents who were covered by the other medical care plan will be eligible for participation subject to *[the provisions of 22 CSR 10-2.060(1)(Q)1.]* **any applicable pre-existing conditions as outlined in the plan document.**

3. Employees who terminate all employment with the state (not simply move from one agency to another) and are rehired as a new state employee before termination of participation, and their eligible dependents who were covered by the *[PPO]* plan, will be eligible for participation immediately.

4. Employees who terminate all employment with the state (not simply move from one agency to another) and are rehired as a new state employee in the subsequent month, and their eligible dependents who were covered by the *[PPO]* plan, will be eligible for participation retroactive to the date following termination of participation;

(P) Emancipated child(ren)—A child(ren) who is—

1. Employed on a full-time basis;

2. Eligible for group health benefits in his/her own behalf;

3. Maintaining a residence separate from his/her parents or guardian—except for full-time students in an accredited school or institution of higher learning; **or**

4. Married; *[or]*

[5. Not dependent upon parents or guardian for at least fifty percent (50%) support;]

[(BB) Medicare HMO (risk contract)—An HMO exclusively for members residing in specified areas and covered by Medicare whereby benefits are provided in accordance with a plan approved by federal regulation;]

[(CC)] **(BB)** Nurse—A registered nurse (RN), licensed practical nurse (LPN) or licensed vocational nurse (LVN). Nurse shall also include an employee of an institution operated principally for treating sick and injured persons through spiritual means which meets the requirements of a hospital as defined in this rule;

[(DD)] **(CC)** Open enrollment period—A period designated by the plan during which members may enroll, switch, or change their level of coverage in any of the available health care options with the new coverage becoming effective as of the beginning of the new plan year;

[(EE)] **(DD)** Out-of-area—Applies to claims of members living in specified zip code areas where the number of available providers does not meet established criteria;

[(FF)] **(EE)** Out-of-network—Providers that do not participate in the member's health plan;

[(GG)] **(FF)** Participant—Any employee or dependent *[who has been]* accepted for membership in the plan;

[(HH)] **(GG)** Physically or mentally disabled—The inability of a person to be self-sufficient as the result of a condition diagnosed by a physician as a continuing condition;

[(II)] **(HH)** Physician/Doctor—A licensed practitioner of the healing arts, acting within the scope of his/her practice as licensed under 334.021, RSMo;

[(JJ)] **(II)** Plan—The program of medical care benefits established by the trustees of the Missouri Consolidated Health Care Plan as authorized by state law;

[(KK)] **(JJ)** Plan administrator—The trustees of the Missouri Consolidated Health Care Plan;

[(LL)] **(KK)** Plan document—*[This]* **The** statement of the terms and conditions of the plan as adopted by the plan administrator **in the applicable "Missouri Consolidated Health Care Plan Member Handbook" and incorporated by reference**;

[(MM)] **(LL)** Plan year—Same as benefit year;

[(NN)] **(MM)** Point-of-service—A plan which provides a wide range of comprehensive health care services, like an HMO, if in-network providers are utilized, and like a PPO plan, if non-network providers are utilized;

[(OO)] **(NN)** Pre-admission testing—X rays and laboratory tests conducted prior to a hospital admission which are necessary for the admission;

[(PP)] **(OO)** Preferred provider organization (PPO)—An arrangement with providers where discounted rates are given to members of the plan who, in turn, are offered a financial incentive to use these providers;

[(QQ)] **(PP)** Premium option—A set of covered benefits with specified co-payment and coinsurance amounts;

[(RR)] **(QQ)** Prior plan—The terms and conditions of a plan in effect for the period preceding coverage in the MCHCP;

[(SS)] **(RR)** Provider—Hospitals, physicians, chiropractors, medical agencies, or other specialists who provide medical care within the scope of his/her practice and are recognized under the provisions and administrative guidelines of the plan. Provider also includes a qualified practitioner of an organization which is generally recognized for health insurance reimbursement purposes and whose principles and practices of spiritual healing are well established and recognized;

[(TT)] **(SS)** Public entity—A state-sponsored institution of higher learning, political subdivision or governmental entity or instrumentality that has elected to join the plan and has been accepted by the board;

[(UU)] **(TT)** Review agency—A company responsible for administration of clinical management programs;

[(VV)] **(UU)** Second opinion program—A consultation and/or exam with a physician qualified to perform the procedure who is not affiliated with the attending physician/surgeon, for the purpose of evaluating the medical necessity and advisability of undergoing a surgical procedure or receiving a service;

[(WW)] **(VV)** Skilled nursing facility (SNF)—An institution which meets fully each of the following requirements:

1. It is operated pursuant to law and is primarily engaged in providing, for compensation from its patients, the following services for persons convalescing from sickness or injury: room, board and twenty-four (24) hour-a-day nursing service by one (1) or more professional nurses and nursing personnel as are needed to provide adequate medical care;

2. It provides the services under the supervision of a proprietor or employee who is a physician or registered nurse; and it maintains adequate medical records and has available the services of a physician under an established agreement, if not supervised by a physician or registered nurse; and

3. A skilled nursing facility shall be deemed to include institutions meeting the criteria in subsection (1)(VV) of this rule which are established for the treatment of sick and injured persons through spiritual means and are operated under the authority of organizations which are recognized under Medicare (Title I of Public Law 89-97);

[(XX) Staff model—A set of covered benefits established by the HMO similar to the premium and standard options, but with varying co-payment and coinsurance amounts;]

[(YY)] **(WW)** Standard option—A set of covered benefits similar to the premium option, but with higher co-payment and coinsurance amounts;

[(ZZ)] **(XX)** State—Missouri;

[(AAA)] **(YY)** Unemancipated child(ren)—A natural child(ren), a legally adopted child(ren) or a child(ren) placed for adoption, and a dependent disabled child(ren) over twenty-three (23) years of age (during initial eligibility period only and appropriate documentation may be required by the plan), and the following:

1. Stepchild(ren);

2. Foster child(ren) for whom the employee is responsible for health care;

3. Grandchild(ren) for whom the employee has legal custody and is responsible for providing health care;

4. Other child(ren) for whom the employee is legal custodian subject to specific approval by the plan administrator. *[This child(ren) must rely on the parent/custodian for his/her major financial support (appropriate documentation may be required).]* Except for a disabled child(ren) as described in subsection (1)(GG) of this rule, an unemancipated child(ren) is eligible from birth to the end of the month in which s/he is emancipated, as defined here, or attains age twenty-three (23) (twenty-five (25) if attending school full-time and the public entity joining the plan had immediate previous coverage allowing this provision) (see 22 CSR 10-2.020(5)(D)2. for continuing coverage on handicapped child(ren) beyond age twenty-three (23)); and

5. Stepchild(ren) who are not domiciled with the employee, provided the natural parent who is legally responsible for providing coverage is also covered as a dependent under the plan; and

[(BBB)] **(ZZ)** Usual, customary, and reasonable charge.

1. Usual—The fee a physician most frequently charges the majority of his/her patients for the same or similar services;

2. Customary—The range of fees charged in a geographic area by physicians of comparable skills and qualifications for the same performance of similar service;

3. Reasonable—The flexibility to take into account any unusual clinical circumstances involved in performing a particular service; and

4. A formula is used to determine the customary maximum. The customary maximum is the usual charge submitted by ninety percent (90%) of the doctors for ninety percent (90%) of the procedures reported.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

EMERGENCY AMENDMENT

22 CSR 10-2.020 Membership Agreement and Participation Period. The board is amending subparagraph (4)(B)3.A., paragraphs (7)(B)3. and 4. and paragraph (8)(A)7.

PURPOSE: This amendment includes changes in the membership agreement and participation period made by the board of trustees regarding the Missouri Consolidated Health Care Plan.

EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

(4) The effective date of participation shall be determined, subject to the effective date provision in subsection (4)(C), as follows:

(B) Dependent Coverage. Dependent participation cannot precede the employee's participation. Application for participants must be made in accordance with the following provisions. For family coverage, once an employee is participating with respect to dependents, newly acquired dependents are automatically covered on their effective dates as long as the plan administrator is notified within thirty-one (31) days of the person becoming a dependent. The employee is required to notify the plan administrator on the appropriate form of the dependent's name, date of birth, eligibility date and Social Security number, if available. Claims will not be processed until the required information is provided;

1. If an employee makes concurrent application for dependent participation on or before the date of eligibility or within thirty-one (31) days thereafter, participation for dependent will become effective on the date the employee's participation becomes effective;

2. When an employee participating in the plan first becomes eligible with respect to a dependent child(ren), coverage may become effective on the eligibility date or the first day of the month coinciding with or following the date of eligibility if application is made within thirty-one (31) days of the date of eligibility and provided any required contribution for the period is made; and

3. Unless required under federal guidelines—

A. An emancipated dependent who regains his/her dependent status is *[not]* **immediately** eligible for coverage *[until the next open enrollment period]* **if an application is submitted within thirty-one (31) days of regaining dependent status**; and

B. An eligible dependent that is covered under a spouse's health plan who loses eligibility under the criteria stipulated for dependent status under the spouse's health plan is not eligible for coverage until the next open enrollment period. (Note: Subparagraphs (4)(B)3.A. and B. do not include dependents of retirees or long-term disability members covered under the plan.)

(7) Continuation of Coverage.

(B) Employee Eligible for Retirement Benefits. Any employee who, at the time of termination of employment, met the following—

1. Eligibility Criteria:

A. Coverage through MCHCP since the effective date of the last open enrollment period;

B. Other health insurance for the six (6) months immediately prior to the termination of state employment—proof of insurance is required; or

C. Coverage since first eligible;

2. Immediately eligible to receive a monthly retirement benefit from the Missouri State Employees' Retirement System, Public School Retirement System, the retirement system of a participating public entity, or the Highway Retirement System may elect to continue to participate in the plan by paying the cost of plan benefits as determined by the plan administrator. An employee must apply for continued coverage within thirty-one (31) days of the first day of the month following the date of retirement. An employee, continuing coverage under this provision, may also continue coverage for eligible dependents.

A. If a member participates in the MCHCP as a vested member, his/her dependents may also participate if they meet one of the following criteria:

(I) They have had coverage through MCHCP since the effective date of the last open enrollment period;

(II) They have had other health insurance for the six (6) months immediately prior to state employment termination—proof of insurance is required; or

(III) They have had coverage since they were first eligible;

3. In the case of the death of a retiree who was maintaining dependent coverage under this provision, the dependent of the deceased retiree may continue his/her participation under the plan. However, retirees, long-term disability recipients and their dependents are not later eligible if they discontinue their coverage at some future time*[.]***, except as noted in (7)(B)4.;**

4. A vested or retired member may elect to suspend their coverage upon entry into the armed forces of any country by submitting a copy of their activation papers within thirty-one (31) days of their activation date. Coverage will be suspended the first of the month following the month of activation. Coverage may be reinstated at the same level upon discharge by submitting a copy of their separation papers and a completed enrollment form within thirty-one (31) days of their separation date. Coverage will be reinstated as of the first of the month following the month of separation.

(8) Federal Consolidated Omnibus Budget Reconciliation Act (COBRA).

(A) In accordance with the COBRA, eligible employees and their dependents may continue their medical coverage after the employee's termination date.

1. Employees terminating for reasons other than gross misconduct may continue coverage for themselves and their covered dependents for eighteen (18) months at their own expense.

2. A surviving spouse and dependents, not normally eligible for continued coverage, may elect coverage for up to thirty-six (36) months at their own expense.

3. A divorced spouse may continue coverage at his/her own expense for up to thirty-six (36) months if the plan administrator is notified within sixty (60) days from the date coverage would terminate.

4. Dependent spouse and/or child(ren) may continue coverage up to thirty-six (36) months if the covered employee retires and the dependent spouse/child(ren) has not been covered by the plan for two (2) years.

5. Children who would no longer qualify as dependents may continue coverage for up to thirty-six (36) months at their (or their parent's/guardian's) expense if the plan administrator is notified within sixty (60) days of the loss of the dependent's eligibility.

6. Employees who are disabled at termination or become disabled during the first sixty (60) days of coverage may continue coverage for up to twenty-nine (29) months.

7. Premiums for continued coverage will be one hundred two percent (102%) of the **health plan** rate *[under the regular PPO plan]*, one hundred fifty percent (150%) if disabled. Once coverage is terminated under the COBRA provision it cannot be reinstated.

8. All operations under the COBRA provision will be applied in accordance with federal regulations.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

EMERGENCY RESCISSION

22 CSR 10-2.040 PPO Plan Summary of Medical Benefits. The rule provided a summary of the medical benefits under the PPO plan.

PURPOSE: This rule is being rescinded as this benefit plan is no longer available.

EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year, Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

EMERGENCY AMENDMENT

22 CSR 10-2.045 Co-Pay *and PPO* Plan *[Summary of Medical Benefits]* ***Summaries***. The board is deleting sections (1)–(6) and (9) and renumbering sections (7) and (8) of this rule.

PURPOSE: This amendment includes changes made by the board of trustees regarding medical benefits for participants in the Missouri Consolidated Health Care Plan Co-Pay and PPO Plans.

EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

[(1) Lifetime Maximum:

(A) Network—no limit.

(B) Out-of-Network, Out-of-Area—three (3) million dollars.

(2) Automatic Annual Reinstatement—Maximum, five thousand dollars ($5,000).

(3) Non-Network and Out-of-Area Deductible Amount—

(A) Network—zero.

(B) Out-of-Network, Out-of-Area—three hundred dollars ($300) individual, nine hundred dollars ($900) family, per calendar year.

(4) Coinsurance.

(A) Individual—

1. Network—Eighty percent (80%) coinsurance applies to specific benefits. After satisfying the two thousand dollar ($2,000) individual out-of-pocket maximum, claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year. Please refer to the schedule of benefits.

2. Non-network—Seventy percent (70%) coinsurance applies to covered services. After satisfying the four thousand five hundred dollar ($4,500) individual out-of-pocket maximum, claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year.

3. Out-of-area—Eighty percent (80%) coinsurance applies to covered services after satisfying one thousand five hundred dollar ($1,500) individual out-of-pocket maximum. Claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year.

(B) Family—

1. Network—Eighty percent (80%) coinsurance applies to specific benefits. After satisfying the six thousand dollar ($6,000) family out-of-pocket maximum, claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year. Please refer to the schedule of benefits.

2. Non-network—Seventy percent (70%) coinsurance applies to covered services. After satisfying the nine thousand dollar ($9,000) family out-of-pocket maximum, claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year.

3. Out-of-area—Eighty percent (80%) coinsurance applies to covered services after satisfying three thousand dollar ($3,000) family out-of-pocket maximum. Claims will be paid at one hundred percent (100%) of any excess of covered charges in the calendar year.

(C) Non-Network Services—Same as subsections (4)(A) and (B) of this rule, except covered charges are reimbursed on a seventy percent (70%) basis.

(5) The employee or dependent will only be responsible for a fifteen dollar ($15) co-payment for an office visit for covered services if a physician or provider is utilized who is enrolled in a preferred provider network that has contracted with the plan administrator.

(6) Hospital Room Charges—The hospital's most common charge for semi-private accommodations, unless a private room has been recommended by a physician and approved by the claims administrator or the plan's medical review agency.]

[(7)] **(1)** Clinical Management—Certain benefits are subject to a utilization review (UR) program. The program consists of four (4) parts, as described in the following:

(A) Precertification—The medical necessity of a non-emergency hospital admission, specified procedures as documented in the claims administrator's guidelines, and/or skilled nursing services provided on an inpatient basis must be prior authorized by the appropriate review agency. For emergency hospital admissions, the review agency must be notified within forty-eight (48) hours of the admission. Retirees and other participants for whom Medicare is the primary payor are not subject to this provision;

(B) Concurrent Review—The review agency will continue to monitor the medical necessity of the admission and approve the continued stay in the hospital. Retirees and other participants for whom Medicare is the primary payor are not subject to this provision;

(C) Large Case Management—Members that require long-term acute care may be offered the option of receiving the care, if appropriate, in a more cost-effective setting such as a skilled nursing facility or their own home. In some cases this may require coverage for benefits that normally are not covered under the plan. These benefits may be provided through the approval of the claims administrator;

(D) Hospital Bill Audits—Certain hospital bills will be subject to review to verify that the services billed were actually provided and/or the associated billed amounts are accurate and appropriate; and

(E) Penalties—Members not complying with subsections *[(7)]***(1)**(A) and (B) of this rule may be subject to a financial penalty in connection with their covered benefits. (Note: The utilization review program will be operated in accordance with the administrative guidelines.)

[(8)] **(2)** Participants eligible for Medicare who are not eligible for this plan as their primary plan, shall be eligible for benefits no less than those benefits for participants not eligible for Medicare. For such participants who elect to continue their coverage, benefits of

this plan shall be coordinated with Medicare benefits on the then standard coordination of benefits basis to provide up to one hundred percent (100%) reimbursement for covered charges.

(A) If a participant eligible for Medicare who is not eligible for this plan as the primary plan is not covered by Medicare, an estimate of Medicare Part A and/or Part B benefits shall be made and used for coordination or reduction purposes in calculating benefits. Benefits will be calculated on a claim submitted basis so that if, for a given claim, Medicare reimbursement was for more than the benefits provided by this plan without Medicare, the balance will not be considered when calculating subsequent claims; and

(B) If any retired participants or long-term disability recipients, their eligible dependents or surviving dependents eligible for coverage elect not to be continuously covered from the date first eligible, or do not apply for coverage within thirty-one (31) days of their eligibility date, they shall not thereafter be eligible for coverage.

[(9) Prescription Drug Program—The co-pay plan provides coverage for prescription drugs, as described in the following:

(A) Medications.

1. In-Network.

A. Ten dollar ($10) co-pay for thirty (30)-day supply for generic drug on the formulary.

B. Twenty dollar ($20) co-pay for thirty (30)-day supply for brand drug on the formulary.

C. Thirty-five dollar ($35) co-pay for thirty (30)-day supply for non-formulary drug.

2. Prescriptions filled with a brand drug when a generic is available will be subject to the generic co-payment amount and the member must also pay the difference in the cost between the generic and brand drugs.

3. Mail Order Program—Prescriptions may be filled through a mail order program for up to a ninety (90)-day supply for twice the regular co-payment.

(B) Non-Network Pharmacies—If a member chooses to use a non-network pharmacy, s/he will be required to pay the full cost of the prescription, then file a claim with the prescription drug administrator. S/he will be reimbursed the amount that would have been allowed at an in-network pharmacy, less any applicable co-payment. Any difference between the amount paid by the member at a non-network pharmacy and the amount that would have been allowed at an in-network pharmacy will not be applied to the out-of-pocket maximum.]

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expires June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
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EMERGENCY RESCISSION

22 CSR 10-2.050 PPO Plan Benefit Provisions and Covered Charges. This rule provided a summary of the benefit provisions and covered charges under the PPO plan.

PURPOSE: This rule is being rescinded as this benefit plan is no longer available.

EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year. Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
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EMERGENCY AMENDMENT

22 CSR 10-2.055 Co-Pay *and PPO* Plan Benefit Provisions and Covered Charges. The board is amending this rule in regard to the modified benefit provisions and covered charges.

PURPOSE: This amendment includes changes made by the board of trustees regarding benefit provisions and covered charges in the Missouri Consolidated Health Care Plan Co-Pay and PPO Plans.

EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

[(1) Covered Charges.

(A) Allergy Injections—Fifteen dollar ($15) co-payment for office visit also covers injection. Ten dollar ($10) co-payment per injection received if not during office visit.

(B) Ambulance Service—Ground services covered with fifty dollar ($50) co-payment if medically necessary or with prior approval. Air services covered on same basis, twenty

percent (20%) coinsurance and deductible for non-emergencies.

(C) Birth Control Pills—Birth control pills on the formulary covered at one hundred percent (100%). Not covered out-of-network.

(D) Chiropractic Benefits—Charges subject to fifteen dollar ($15) co-payment; fifty dollar ($50) co-pay per visit maximum, two thousand dollar ($2,000) annual maximum (out-of-network only).

(E) Complications—Normally covered charges arising as a complication of a noncovered service.

(F) Dental Care—Treatment to reduce trauma as a result of accidental injury and restorative services that are a result of that injury. Fifteen dollar ($15) office visit co-pay, regardless of where services are rendered.

(G) Durable Medical Equipment—Twenty percent (20%) coinsurance. Coverage for certain prosthetic devices and durable medical equipment, including customized orthotics.

(H) Emergency Care—Fifty dollar ($50) co-payment in or out of service area. Waived if admitted.

(I) Eye Care—Treatment of disease or to reduce trauma as a result of accident. Annual exam covered with a fifteen dollar ($15) co-payment.

(J) Growth Hormone Therapy—Subject to twenty percent (20%) coinsurance, medical necessity and prior authorization.

(K) Hearing Aids and Testing—Covered once every two (2) years, subject to twenty percent (20%) co-payment and fifteen dollar ($15) co-payment for annual hearing test.

(L) Home Health Care—Covered when authorized by claims administrator.

(M) Hospice Care—Covered with prior authorization.

(N) Hospital Benefit for Mental and Nervous Disorder—One hundred dollar ($100) co-payment per admission. Four hundred dollar ($400) annual inpatient hospital maximum. Must be pre-certified.

(O) Hospital Benefits for Chemical Dependency—One hundred dollar ($100) co-payment per admission. Four hundred dollar ($400) annual inpatient hospital maximum. Must be precertified.

(P) Hospital Room and Board—One hundred dollar ($100) co-payment per admission. Four hundred dollar ($400) annual maximum. Must be precertified.

(Q) Injections—All injections provided in full (except allergy and contraceptive injections).

(R) Infertility—Coverage limited to fifty percent (50%) for in vivo services, including provider, and prescription drug charges. Exclusions include reversals of voluntary sterilization, in vitro fertilization, gamete intrafallopian transfer (GIFT), and zygote intrafallopian transfer (ZIFT). Not covered out-of-network. Deductible applies to out-of-area.

(S) Maternity Coverage—Fifteen dollar ($15) co-payment for initial visit. All other prenatal visits, delivery costs and routine post-natal visits covered at one hundred percent (100%). No travel exclusions, restrictions or limitation allowed.

(T) Nutrient Supplement—Not covered out-of-network.

(U) Organ Transplants—The following organ transplants covered at one hundred percent (100%) through the National Transplant Program: bone marrow, cornea, kidney, liver, heart, lung, pancreas, intestinal, or any combination, when: 1) neither experimental nor investigational, and 2) medically necessary as determined by the claims administrator. Donor expenses are covered. No waiting periods allowed. Non-network and out-of-area limited to maximum surgical schedule.

(V) Outpatient Diagnostic Lab and X-Ray—Provided in full.

(W) Outpatient Mental and Nervous Disorder and Chemical Dependency—Fifteen dollar ($15) co-payment per visit.

(X) Oxygen—(Outpatient) Subject to twenty percent (20%) coinsurance. Covered under Durable Medical Equipment.

(Y) Physical Therapy and Rehabilitation Services—Ten dollar ($10) co-payment per visit for outpatient therapy. Limited to sixty (60) visits per incident. Additional visits if medically necessary.

(Z) Physician Charges.

1. Inpatient—Provided in full.

2. Outpatient—Provided in full after fifteen dollar ($15) co-payment per office visit.

3. Internet—Covered when enrolled in the Care Support Program and registered for the service.

(AA) Plan Maximum—Not applicable for network services, out-of-network and out-of-area limited to three (3) million dollars with five thousand dollar ($5,000) reinstatement.

(BB) Prescription Drugs—Insulin, syringes, test strips and glucometers are included in this coverage. There is no out-of-pocket maximum. Member is responsible only for the lesser of the applicable co-payment or the cost of the drug.

1. Ten dollar ($10) co-pay for thirty (30)-day supply for generic drug on the formulary.

2. Twenty dollar ($20) co-pay for thirty (30)-day supply for brand drug on the formulary.

3. Thirty-five dollar ($35) co-pay for thirty (30)-day supply for non-formulary drug.

4. Ninety (90)-day supply of medication for two (2) co-payments (mail order only).

(CC) Preventive Services—Annual physical exams, mammograms (subject to schedule), pap smears, well-baby care, immunizations. Annual well-woman exam without referral to a network provider.

(DD) Prosthetics—Provided in full for initial placement. Twenty percent (20%) coinsurance for coverage for repair or replacement due to change in medical condition.

(EE) Skilled Nursing—Provided in full. Limited to one hundred and twenty (120) days.

(FF) Surgery.

1. Inpatient—Provided in full.

2. Outpatient—Fifty dollar ($50) co-payment.]

(1) Benefit Provisions.

(A) Subject to the plan provisions and limitations and the written application of the employee, the benefits are payable for covered charges incurred by a participant while covered under the co-pay or PPO plans, provided the deductible requirement, if any, is met.

(B) Any deductible requirement applies each calendar year to covered charges. The requirement is met as soon as covered charges incurred in a calendar year, which are not paid in part or in whole by the plan, equals the deductible amount.

(C) Any family deductible requirement is met as soon as covered charges in a calendar year, which are not paid in part or in whole by the plan, equals the family deductible requirement.

(D) The total amount of benefits payable for all covered charges incurred out-of-network during an individual's lifetime shall not exceed the lifetime maximum.

(E) If both husband and wife are participating separately as employees under this plan, the family deductible and benefit features shall nevertheless apply to the benefit of the family unit.

(2) Covered Charges.

(A) Only charges for those services which are incurred as medical benefits and supplies which are medically necessary and customary, including normally covered charges arising as a complication of a noncovered service, and which are:

1. Prescribed by a doctor or provider for the therapeutic treatment of injury or sickness;

2. To the extent they do not exceed any limitation;

3. Not excluded by the limitations; and

4. For not more than the usual, reasonable, and customary charge as determined by the claims administrator for the services provided, will be considered covered charges.

(B) To determine if services and/or supplies are medically necessary and customary and if charges are not more than usual, reasonable, and customary, the claims administrator will consider the following:

1. The medical benefits or supplies usually rendered or prescribed for the condition; and

2. The usual, reasonable, and customary charges in the area in which services and/or supplies are provided.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
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EMERGENCY RESCISSION

22 CSR 10-2.060 PPO and Co-Pay Plan Limitations. This rule provided the limitations of the PPO and Co-Pay plans.

PURPOSE: This rule is being rescinded as the information is contained in the Plan Document.

EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year. Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

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EMERGENCY RESCISSION

22 CSR 10-2.063 HMO/POS Premium Option Summary of Medical Benefits. This rule provided a summary of the medical benefits under the HMO/POS Premium Option.

PURPOSE: This rule is being rescinded as the information is contained in the Plan Document.

EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year. Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

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EMERGENCY RESCISSION

22 CSR 10-2.064 HMO/POS Standard Option Summary of Medical Benefits. This rule provided a summary of the medical benefits of the HMO/POS Standard Option.

PURPOSE: This rule is being rescinded as the information is contained in the Plan Document.

EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year. Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 12, 2000, effective Jan. 1, 2001, expired June 29, 2001. Original rule filed Dec. 12, 2000, effective June 30, 2001. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

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EMERGENCY RESCISSION

22 CSR 10-2.067 HMO and POS Limitations. This rule provided the limitations of the HMO and POS plans.

PURPOSE: This rule is being rescinded as the information is contained in the Plan Document.

*EMERGENCY STATEMENT: It is imperative that this rule be rescinded immediately in order to maintain the integrity of the current health care plan. This benefit will no longer be available next year. Therefore, this emergency rescission must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule is rescinded to reflect changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency rescission complies with the protections extended by the **Missouri** and **United States Constitutions** and limits its scope to the circumstances creating the emergency. This emergency rescission is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency rescission filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the **Code of State Regulations**. Emergency rescission filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

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EMERGENCY AMENDMENT

22 CSR 10-2.075 Review and Appeals Procedure. The board is amending section (5) and paragraph (5)(B)2.

PURPOSE: This amendment includes changes made by the board of trustees regarding the review and appeals procedure of the Missouri Consolidated Health Care Plan.

*EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the **Missouri** and **United States Constitutions** and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

(5) All insured members of the Missouri Consolidated Health Care Plan (MCHCP) shall use the claims and administration procedures established by the health maintenance organization (HMO), point-of-service (POS)**,** *[or]* preferred provider organization (PPO) **or co-pay** health plan contract applicable to the insured member. Only after these procedures have been exhausted may the insured appeal to the Missouri Consolidated Health Care Plan Board of Trustees to review the decision of the health plan contractor.

(B) The board may utilize a hearing officer, such as the Administrative Hearing Commission, to conduct a fact-finding hearing and make proposed findings of fact and conclusions of law.

1. The hearing will be scheduled by the MCHCP.

2. The parties to the hearing will be the insured and the applicable health plan *[contractor]*.

3. All parties shall be notified, in writing of the date, time and location of the hearing.

4. All parties shall have the right to appear at the hearing and submit written or oral evidence. The appealing party shall be responsible for all copy charges incurred by MCHCP in connection with any documentation that must be obtained through the MCHCP. These fees will be reimbursed should the party prevail in his/her appeal. They may cross-examine witnesses. They need not appear and may still offer written evidence. The strict rules of evidence shall not apply.

5. The party appealing to the board shall carry the burden of proof.

6. The independent hearing officer shall propose findings of fact and conclusions of law, along with its recommendation, to the board. Copies of the summary, findings, conclusions and recommendations shall be sent to all parties.

*AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 13, 1995, effective May 1, 1995, expired August 28, 1995. Original rule filed Dec. 21, 1994, effective June 30, 1995. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Title 22—MISSOURI CONSOLIDATED HEALTH CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options

EMERGENCY AMENDMENT

22 CSR 10-2.080 Miscellaneous Provisions. The board is amending section (2).

PURPOSE: This amendment includes changes made by the board of trustees regarding the miscellaneous provisions of the Missouri Consolidated Health Care Plan.

EMERGENCY STATEMENT: This emergency amendment must be in place by January 1, 2003, in accordance with the award of our current contracts. Therefore, this rule is necessary to protect members (employees, retirees and their families) enrolled in the Missouri Consolidated Health Care Plan (MCHCP) from the unintended consequences of having their health insurance coverage interrupted due to confusion regarding eligibility or availability of benefits. Further, it clarifies member eligibility and responsibility for various types of eligible charges, beginning with the first day of coverage for the new plan year. It may also help ensure that inappropriate claims are not made against the state and help protect the MCHCP and its members from being subjected to unexpected and significant financial liability and/or litigation. It is imperative that this rule be registered immediately in order to maintain the integrity of the current health care

plan. This emergency amendment must become effective January 1, 2003, in order that an immediate danger is not imposed on the public welfare. This rule reflects changes made to the plan by the Missouri Consolidated Health Care Plan Board of Trustees. This emergency amendment complies with the protections extended by the ***Missouri*** *and* ***United States Constitutions*** *and limits its scope to the circumstances creating the emergency. This emergency amendment is calculated to assure fairness to all interested persons and parties under the circumstances. Emergency amendment filed December 20, 2002, becomes effective January 1, 2003, and expires on June 29, 2003.*

(2) Facility of Payment. Preferred provider organization (PPO) **and co-pay** plan benefits will be paid to the employee if living and capable of giving a valid release for the payment due. If the participant, while living, is physically, mentally or for any other reason incapable of giving a valid release for any payment due, the claims administrator at his/her option, unless and until request is made by the duly appointed guardian, may pay benefits which may become due to any blood relative or relative connected by marriage to the participant, or to any other person or institution appearing to the claims administrator to have assumed responsibility for the affairs of the participant. Any payments made by the claims administrator in good faith pursuant to this provision shall fully discharge the claims administrator to the extent of the payment. Any benefit unpaid at the time of the employee's death will be paid to the employee's estate. If any benefits shall be payable to the estate of the employee, the claims administrator may pay these benefits to any relative by blood or connection by marriage of the employee who is deemed by the claims administrator to be equitably entitled to it. Any payments made by the claims administrator in good faith pursuant to this provision shall fully discharge the claims administrator to the extent of this payment. Subject to any acceptable written direction and assignment by the employee, any benefits provided, at the claims administrator's *[opinion]* **option**, may be paid directly to an eligible provider rendering covered services; but it is not required that the service be rendered by a particular provider.

AUTHORITY: section 103.059, RSMo 2000. Emergency rule filed Dec. 16, 1993, effective Jan. 1, 1994, expired April 30, 1994. Emergency rule filed April 4, 1994, effective April 14, 1994, expired Aug. 11, 1994. Original rule filed Dec. 16, 1993, effective July 10, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Dec. 20, 2002, effective Jan. 1, 2003, expires June 29, 2003.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register.* If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 2—Classification and Pay Plans

PROPOSED AMENDMENT

1 CSR 20-2.015 Broad Classification Bands for Managers. The Personnel Advisory Board is amending paragraph (6)(B)2.

PURPOSE: This amendment is necessary to allow for consistent application of rules governing layoffs.

(6) Separation, Suspension and Demotion. The provisions of 1 CSR 20-3.070 are applicable in the administration of broad classification bands for managers in agencies covered by the merit system provisions of the State Personnel Law, except as specifically outlined in this section, or necessary for implementation.

(B) Demotions and Transfers. An appointing authority may demote an employee in accordance with the following:

1. No demotion for cause shall be made unless the employee to be demoted meets the minimum qualifications for the lower position demoted to, and shall not be made if any regular employee in the affected class and band or range would be laid off by reason of the action; and

2. An appointing authority, upon written request of the regular employee affected, shall demote such employee in lieu of layoff to a position in a lower band in the same class; or shall demote or transfer such employee *[to another class for which the employee meets the qualifications; or]* to an appropriate class and pay range in the same occupational job series; or to a position in which the employee previously has served and has obtained regular status in the division of service involved; even though these actions may result in additional layoffs. **An appointing authority may also, upon written request of the regular employee affected, demote or transfer such employee in lieu of layoff to another class for which the employee meets the qualifications, even if these actions may result in additional layoffs.** In the event of a demotion to a lower band, or a demotion or transfer to a class and pay range in lieu of layoff, an employee shall have his/her name placed on the appropriate register.

*AUTHORITY: section 36.070, RSMo [Supp. 1998] **2000**. Original rule filed March 11, 1999, effective Sept. 30, 1999. Emergency amendment filed Jan. 2, 2003, effective Jan. 12, 2003 expires July 10, 2003. Amended: Filed Jan. 2, 2003.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Director of Personnel, Office of Administration, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing on this proposed amendment is scheduled for 1:00 p.m., March 11, 2003 in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, *[and]* Professional Land Surveyors *and Landscape Architects*
Chapter 4—Applications

PROPOSED AMENDMENT

4 CSR 30-4.060 Evaluation—Comity Applications—Architects. The board is proposing to amend the original Purpose statement and sections (1)–(3).

PURPOSE: This amendment changes the word "registered" to "licensed" and "registration" to "licensure" and deletes "practicing as a principal or the equivalent as determined by the architectural division" from section (3).

*PURPOSE: This rule insures that applicants for [registration] **licensure** as architects meet the minimum requirements for initial [registration] **licensure** in Missouri.*

(1) Individuals applying for *[registration]* **licensure** as an architect under section 327.381, RSMo who were originally *[registered]* **licensed** in another state without being required to pass the **National Council of Architectural Registration Boards (**NCARB**)** examinations, that is, the Qualifying Test, the Design Problem and the Professional Examination, will be required to pass the NCARB examination(s) or any portion which s/he was not required to pass to attain his/her original or subsequent *[registration(s)]* **licensure(s)**.

(2) Individuals applying for *[registration]* **licensure** as an architect under section 327.381, RSMo who were originally *[registered]* **licensed** in a territory or possession of the United States or in another country without being required to pass the NCARB examinations, that is, the Qualifying Test, the Design Problem and the Professional Examination, must pass such examination(s) as the architectural division deems necessary.

(3) Experience as a *[registered]* **licensed** architect *[practicing as a principal or the equivalent as determined by the architectural division,]* acceptably documented for a period of at least two (2) years, may be accepted in lieu of passing the Qualifying Test and/or the Design Problem.

*AUTHORITY: sections 327.041 **and 327.381**, RSMo [1986] **Supp. 2001**. Original rule filed Dec. 8, 1981, effective March 11, 1982. Amended: Filed Dec. 9, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to save private entities approximately four hundred twenty-nine dollars ($429) annually for the life of the rule. It is anticipated that the total savings will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the savings established with this rule change, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 – Department of Economic Development

Division: 30 – Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Chapter: 4 - Applications

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 4 CSR 30-4.060 Evaluation – Comity Applications - Architects

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by types of the business entities which would likely be affected:	Estimated annual cost savings of the amendment by the affected entities:
1	Applicant (testing fees - $429)	$429.00
	Total annual cost savings for the life of the rule	**$429.00**

III. WORKSHEET

See above table

IV. ASSUMPTIONS

1. The board anticipates one (1) applicant per year will be relieved of taking and passing the Qualifying Test and/or the Design Problem, therefore, private entities will save approximately $429.00 annually.

2. It is anticipated that the total annual savings will recur each year for the life of the rule, may vary with inflation and are expected to increase annually at the rate projected by the Legislative Oversight Committee.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects, Professional Engineers, *[and]* Professional Land Surveyors *and Landscape Architects*
Chapter 11—Renewals

PROPOSED RULE

4 CSR 30-11.030 Professional Engineer Renewal and Reactivation of Licensure

PURPOSE: This rule clarifies the requirements and conditions for renewing and reactivating a professional engineer's certificate of licensure.

(1) Licenses not renewed on or before the renewal date become non-current and subject to the provisions of section 327.261, RSMo. No person is entitled to practice as a professional engineer unless s/he holds a current and active license.

(2) In order to renew a license, the licensee must:

(A) Submit a completed renewal application form furnished by the board; and

(B) Pay the required fee; provided however, no fee shall be paid by a licensee who is at least seventy-five (75) years of age at the time the renewal is due; and

(C) Submit a completed Professional Development Hour (PDH) form furnished by the board verifying that the licensee has completed at least thirty (30) PDHs during the preceding two (2) calendar years unless otherwise exempted.

(3) Licensees who request to be classified as inactive pursuant to section 327.271.1, RSMo, may maintain their inactive status and receive a certificate indicating their inactive status by paying the renewal fee as provided in 4 CSR 30-6.015. Holders of an inactive license need not complete the PDH requirement. However, a holder of an inactive license shall not have his/her license reactivated until s/he pays the required reactivation fee, and in addition, completes thirty (30) Professional Development Hours within the two (2) years immediately prior to the date of reactivation.

AUTHORITY: sections 327.041, RSMo Supp. 2001 and 327.261 and 327.271.1, RSMo 2000. Original rule filed Dec. 9, 2002.

PUBLIC COST: This proposed rule is estimated to cost Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects an estimated fifty-one dollars and twenty cents ($51.20) biennially for the life of the rule. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule is estimated to cost private entities approximately two thousand dollars ($2,000) biennially for the life of the rule. It is anticipated that the total costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects, PO Box 184, Jefferson City, Missouri 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: Division 30 - Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Chapter: Chapter 11-Renewals

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 30-11.030 Professional Engineer Renewal and Reactivation of Licensure

Prepared August 20, 2002 by the Division of Professional Registration.

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance
Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects (Professional Engineer Reactivation)	$51.20

Total biennial cost for the life of the rule **$51.20**

III. WORKSHEET

The office estimates that 20 professional engineers will apply for reactivation biennially. The following is a breakdown of the expense and equipment costs associated with reactivation.

CLASSIFICATION	FEE AMOUNT	NUMBER OF APPLICANTS	TOTAL ANNUAL COST
Renewal Application Printing Cost	$.15	20	$3.00
Envelope for Mailing Renewal Application	$.16	20	$3.20
Postage for Mailing Renewal Application	$.37	20	$7.40
Renewal License Printing Cost	$.15	20	$3.00
Envelope for Mailing Renewal License	$.16	20	$3.20
Postage for Mailing Renewal License	$.37	20	$7.40

Total expense and equipment costs associated with professional land surveyor renewal and reactivation: **$27.20**

The board estimates that approximately 20 professional engineers will reactive their license biennially. The Clerk Stenographer II reviews these applications and updates the information contained on the form in the licensing computer system. The figures below represent the personal service costs paid by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects for the reactivation process.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFITS	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL ANNUAL COST
Clerk Stenographer II	$21,192	$28.963	$14.06	$.24	5 minutes	$1.20	$24.00

Total personal service costs associated with land surveyor reactivation: **$24.00**

IV. ASSUMPTIONS

- The number of licensees by class are based on projected figures in FY03.

- Employee's salaries were calculated using their annual salary multiplied by 36.67% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

- The total costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 4 - Department of Economic Development

Division: Division 30 - Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Chapter: Chapter 11-Renewals

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 30-11.030 Professional Engineer Renewal and Reactivation of Licensure.

Prepared August 20, 2002 by the Division of Professional Registration.

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate biennial cost of compliance with the rule by the affected entities:
20	Professional Land Surveyors (Reactivation Fee - $100)	$2,000
	Total biennial cost for the life of the rule	**$2,000**

III. WORKSHEET

See above Table

IV. ASSUMPTIONS

- The number of licensees by class are based on projected figures in FY03.
- It is anticipated that the total annual cost will recur for the life, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 13—General Rules

PROPOSED AMENDMENT

4 CSR 90-13.010 Fees. The board is proposing to amend subsections (1)(A), (1)(B) and (1)(M) and add a new subsection (1)(Q).

PURPOSE: In order to ensure the board will have sufficient funds to conduct its licensing and regulatory functions pursuant to section 329.210, RSMo, this rule is being amended to increase the renewal fee for Cosmetology Salons, to increase the reciprocity fee to be consistent with the operator renewal fee and to create a fee for the issuance of an inactive license.

(1) The following application fees hereby are established by the State Board of Cosmetology:

(A) Operator Reciprocity Fee	$*[30.00]* **50.00**
(B) Duplicate License Fee	$*[5.00]* **10.00**
(M) Salon License/Renewal Fee (up to and including three (3) operators)	$*[60.00]* **100.00**
(Q) Inactive License Fee	**$ 30.00**

*AUTHORITY: sections 329.110, RSMo 2000 and 329.210, **RSMo Supp. 2001**.* Emergency rule filed July 1, 1981, effective July 11, 1981, expired Nov. 11, 1981. Original rule filed July 1, 1981, effective Dec. 11, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 9, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: Beginning in FY04, this proposed amendment is estimated to cost private entities approximately six thousand six hundred sixty-five dollars ($6,665) annually and four hundred sixty-eight thousand six hundred eighty-five dollars ($468,685) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 90 - State Board of Cosmetology

Chapter 13 - General Rules

Proposed Amendment - 4 CSR 90-13.010 Fees

Prepared November 3, 2002 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual Cost of Compliance Beginning in FY04

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated annual cost of compliance with the amendment by affected entities:
327	Operators (Reciprocity Fee -$20 increase)	$6,540.00
25	Inactive Licensees (Duplicate License Fee - $5 increase)	$125.00
	Estimated Annual Cost of Compliance for the Life of the Rule	**$6,665.00**

Biennial Cost of Compliance Beginning in FY04

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
11,714	Salon Owners (Salon License Renewal Fee - $40 increase)	$468,560.00
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$468,685.00**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The above figures were based on FY2002 actual figures and projections for FY2003 and FY2004.

2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 13—General Rules

PROPOSED AMENDMENT

4 CSR 90-13.050 Renewal, Inactive Status, and Reactivation Requirements for Cosmetologists and Instructors. The board is proposing to amend section (3) and delete the forms that follow this rule in the *Code of State Regulations*.

PURPOSE: This amendment requires licensees to submit an inactive fee along with the application to place the license on the inactive status. This amendment also establishes an expiration date for the inactive license.

(3) Inactive License—A cosmetologist and/or instructor may choose to place his/her license on an inactive status by signing a change in licensure status affidavit stating that s/he will not engage in the practice of cosmetology in Missouri and submitting that application to the board office **along with the inactive license fee**. An inactive license will be issued to individuals requesting inactive status. **All inactive licenses shall expire on September 30 of each odd-numbered year.**

*AUTHORITY: sections 329.210, RSMo Supp. [1998] **2001** and 329.230, RSMo [1994] **2000**. Original rule filed Jan. 4, 1999, effective July 30, 1999. Amended: Filed Dec. 9, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: Beginning in FY04, this proposed amendment is estimated to cost private entities approximately two hundred twenty-four thousand five hundred fifty dollars ($224,550) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Cosmetology, Darla Fox, Executive Director, PO Box 1062, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 90 - State Board of Cosmetology

Chapter 13 - General Rules

Proposed Amendment - 4 CSR 90-13.050 Renewal, Inactive Status, and Reactivation Requirements for Cosmetologists and Instructors

Prepared November 3, 2002 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Biennial Cost of Compliance Beginning in FY04

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated biennial cost of compliance with the amendment by affected entities:
7485	Inactive Licensees (Inactive License Fee - $30)	$224,550.00
	Estimated Biennial Cost of Compliance for the Life of the Rule	**$224,550.00**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The above figures were based on FY2002 actual figures and projections for FY2003 and FY2004.

2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 150—State Board of Registration for the Healing Arts
Chapter 8—Licensing of Clinical Perfusionists

PROPOSED AMENDMENT

4 CSR 150-8.140 Continuing Professional Education. The board is proposing to amend subsection (1)(B).

PURPOSE: This amendment allows the board to incorporate the American Board of Cardiovascular Perfusion's revised requirement for recertification.

(1) Each renewal period the licensee must be able to provide proof of current certification by the American Board of Cardiovascular Perfusion (ABCP) or its successor or provide proof of the following:

(B) Documentation of performing forty (40) cases each calendar year as primary perfusionist for cardiopulmonary bypass, ECMO, VAD, Isolated Limb Perfusion, or VENO-VENO bypass. **Fifteen (15) of the forty (40) cases may be documentable intraoperative pump standbys.**

*AUTHORITY: sections 324.144, 324.159 and 324.183, RSMo [Supp. 1997] **2000**. Original rule filed Dec. 2, 1998, effective June 30, 1999. Amended: Filed Dec. 9, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Healing Arts, Attn: Tina Steinman, Executive Director, 3605 Missouri Boulevard, PO Box 4, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 230—State Board of Podiatric Medicine
Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 230-2.070 Fees. The board is proposing to amend subsections (1)(D) and (1)(O), deleting subsections (1)(P) and (1)(Q), and renumbering the remaining subsection accordingly.

PURPOSE: The State Board of Podiatric Medicine is statutorily obligated to enforce and administer the provisions of Chapter 330, RSMo. Pursuant to section 330.140, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 330, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 330, RSMo. This proposed amendment is necessary because the board's fund balance and projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 330, RSMo, which will result in an endangerment to the health, welfare, and safety of the public. This amendment also deletes subsections (1)(P) and (1)(Q) pursuant to section 610.026, RSMo which states fees for copying records shall not exceed the actual cost of document search and duplication.

(1) The following fees are established by the State Board of Podiatric Medicine:

(E) Biennial Renewal Fee	*[$280.00]*	**$350.00**
(O) Application Processing Fee	*[$150.00]*	**$250.00**
[(P) Photocopy Fee (records) (per page)		*$ .25*
(Q) Research Fee (requiring more than two (2) hours of staff time) (per hour)		*$ 20.00]*
[(R)] **(P)** Continuing Education Sponsor Fee		$ 25.00.

*AUTHORITY: sections 330.095 and 330.140, RSMo [Supp. 1999] **2000**. Emergency rule filed June 30, 1981, effective July 9, 1981, expired Nov. 11, 1981. Original rule filed June 30, 1981, effective Nov. 12, 1981. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 9, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: Beginning in FY04 this proposed amendment is estimated to cost private entities an increase of two thousand two hundred dollars ($2,200) annually and eighteen thousand six hundred ninety dollars ($18,690) biennially for the life of the rule. It is anticipated that the total annual cost will recur each year for the life of the rule, however, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Podiatric Medicine, PO Box 423, Jefferson City, MO 65102, by facsimile to (573) 751-1155 or by e-mail to podiatry@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 230 - State Board of Podiatric Medicine

Chapter 2 - General Rules

Proposed Amendment - 4 CSR 230-2.070 Fees

Prepared November 8, 2002 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual Costs Beginning in FY04

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	stimated biennial cost of complian with the amendment by affected entities:
22	Applicants (application processing fee - $100 increase)	$2,200
	Estimated Annual Cost of Compliance for the Life of the Rule	**$2,200**

Biennial Costs Beginning in FY04

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	stimated annual cost of compliane with the amendment by affected entities:
267	Licensees (biennial renewal fee - $70 increase)	$18,690
	Estimated Annual Cost of Compliance for the Life of the Rule	**$18,690**

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.350 Emission Limitations and Emissions Trading of Oxides of Nitrogen. The commission proposes to amend original subsections (1)(B), (1)(C), (2)(M), (5)(F) and (5)(G); amend sections (3) and (4); add new subsections (1)(D), (2)(M), (2)(FF) and (2)(II); delete original subsection (5)(C); and renumber original subsections (2)(M) through (2)(JJ) and (5)(D) through(5)(G). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan. The evidence supporting the need for this proposed rulemaking is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

PURPOSE: This rulemaking will place limitations on cyclone boilers that burn tire derived fuel and extend the compliance date based on recent legislation and legal determinations. Administrative aspects of the NO_x emissions trading program will also be clarified. The evidence supporting the need for this rulemaking per section 536.016, RSMo, is 260.270, RSMo and comments submitted by the Missouri Electric Utility Environmental Committee.

(1) Applicability.

(B) Exemptions.

1. Any unit under subsection (1)(A) of this rule which demonstrates, using *[40 CFR part 75.19]* **the emission estimation methods outlined in paragraph (5)(E)1. of this rule**, that the unit's mass NO_x emissions are twenty-five (25) tons or less during the control period is exempt from the requirements of this rule.

2. The provisions of section (3) of this rule shall not apply to any emergency standby generators, internal combustion engines and peaking combustion turbine units demonstrated to operate less than four hundred (400) hours per control period averaged over the three (3) most recent years of operation, which have installed and maintained in proper operation a nonresettable engine hour meter.

(C) Loss of Exemption. If the exemption limit in paragraph (1)(B)1. or (1)(B)2. is exceeded, the exemption shall be automatically and permanently withdrawn. The owner or operator must notify the *[department]* **staff** director **or designee** within thirty (30) days if an exemption limit is exceeded. **If the owner or operator can demonstrate to the staff director or designee that the exemption limit was exceeded due to emergency operations or uncontrollable circumstances and the unit should be exempt from the provisions of this rule, the exemption shall only be withdrawn for that calendar year.**

(D) Compliance with this rule shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Air Conservation Law and rules or any other requirements under local, state or federal law. Specifically, compliance with this rule shall not violate the permit conditions previously established under 10 CSR 10-6.060 or 10 CSR 10-6.065.

(2) Definitions.

(M) Cyclone EGU—An electric generating unit (EGU) with a fossil fuel-fired boiler consisting of one or more horizontal cylindrical barrels that utilize tangentially applied air to produce a swirling combustion pattern of coal and air.

[(M)] **(N)** Early reduction credit (ERC)—NO_x emission reductions in the years 2000, 2001, *[and]* 2002 **and 2003** that are below *[those required for the control period starting in 2003]* **the limits specified in subsection (3)(A) of this rule**. *[Early reduction credits]* **ERCs** will only be available for use during the years of *[2003]* **2004** and *[2004]* **2005**. **When calculating ERCs or performing calculations involving ERCs, ERCs shall always be rounded down to the nearest ton.**

[(N)] **(O)** Electric generating unit (EGU)—Any fossil fuel-fired boiler or turbine that serves an electrical generator with the potential to use more than fifty percent (50%) of the usable energy from the boiler or turbine to generate electricity.

[(O)] **(P)** Emergency standby generator—A generator operated only during times of loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during routine maintenance.

[(P)] **(Q)** Fossil fuel—Natural gas, petroleum, coal, or any form of solid, liquid or gaseous fuel derived from such material.

[(Q)] **(R)** Fossil fuel-fired—With regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input.

[(R)] **(S)** Generator—A device that produces electricity.

[(S)] **(T)** Heat input—The product (expressed as million British thermal units per hour) of the gross calorific value of the fuel (expressed as British thermal units per pound) and the fuel feed rate into a combustion device (expressed as pounds per hour), as measured, recorded and reported to the department by the NO_x authorized account representative and as determined by the director in accordance with this rule and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

[(T)] **(U)** Nameplate capacity—The maximum electrical generating output (expressed as megawatt) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the National Allowance Data Base (NADB) under the data field "NAMECAP" if the generator is listed in the NADB or as measured in accordance with the United States Department of Energy standards. For generators not listed in the NADB, the nameplate capacity shall be used.

[(U)] **(V)** NO_x allowance—An authorization by the department under the NO_x trading program to emit one (1) ton of NO_x during the control period of the specified year or of any year thereafter.

[(V)] **(W)** NO_x allowance tracking system—The system by which the director records allocations, deductions and transfers of NO_x allowances under the NO_x trading program.

[(W)] **(X)** NO_x allowance transfer deadline—Close of business on December 31 following the control period or, if December 31 is not a business day, close of business on the first business day thereafter and is the deadline by which NO_x allowances may be submitted for recording in an affected unit's compliance account, or the overdraft account of the installation where the unit is located.

[(X)] **(Y)** NO_x authorized account representative—The person who is authorized by the owners or operators of the unit to represent and legally bind each owner and operator in matters pertaining to the NO_x trading program.

[(Y)] **(Z)** NO_x emissions limitation—For an affected unit, the tonnage equivalent of the NO_x emissions rate available for compliance deduction for the unit and for a control period adjusted by any deductions of such NO_x allowances to account for actual utilization for the control period or to an account for excess emissions for a prior control period or to account for withdrawal from the NO_x trading program or for a change in regulatory status for an affected unit.

[(Z)] **(AA)** NO_x emission rate—The amount of NO_x emitted by a combustion unit in pounds per million British thermal units of heat input as recorded by monitoring devices approved in section (5) of this rule.

[(AA)] **(BB)** NO_x opt-in unit—An EGU whose owner or operator has requested to become an affected unit under the NO_x trading program and has been approved by the department.

[(BB)] **(CC)** NO_x unit—Any fossil fuel-fired stationary boiler, combustion turbine, internal combustion engine or combined cycle system.

[(CC)] **(DD)** Opt-in—To voluntarily become an affected unit under the NO_x trading program.

[(DD)] **(EE)** Overdraft account—The NO_x allowance tracking system account established by the director for each NO_x authorized account representative *[with two or more affected units]*.

(FF) Passenger tire equivalent (PTE)—The weight of waste tires or parts of waste tires equivalent to the average weight of one (1) passenger tire. The average weight of one (1) passenger tire is equal to twenty (20) pounds.

[(EE)] **(GG)** Peaking combustion unit—A combustion turbine normally reserved for operation during the hours of highest daily, weekly, or seasonal loads.

[(FF)] **(HH)** Serial number—When referring to NO_x allowances, the unique identification number assigned to each NO_x allowance.

(II) Tire-derived fuel—The end product of a process that converts whole scrap tires into a specific chipped form capable of being used as fuel.

[(GG)] **(JJ)** Unit load—The total output of a unit in any control period produced by combusting a given heat input of fuel expressed in terms of the total electrical generation (expressed as megawatt) produced by the unit including generation for use within the plant, and/or in the case of a unit that uses heat input for purposes other than electrical generation, the total steam flow (lb/hr) produced by the unit, including steam for use by the unit.

[(HH)] **(KK)** Unit operating day—A calendar day in which a unit combusts any fuel.

[(II)] **(LL)** Unit operating hour or hour of unit operation—Any hour or fraction of an hour during which a unit combusts fuel.

[(JJ)] **(MM)** Utilization—The heat input (expressed as million British thermal units per hour) for a unit.

(3) General Provisions.

(A) NO_x Emissions Limitations. Beginning May 1, *[2003]* **2004**, the following NO_x emission rates shall apply:

1. EGUs located in the *[City of St. Louis and the]* counties of Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, *[Franklin,]* Gasconade, Iron, *[Jefferson,]* Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid, Oregon, Pemiscot, Perry, Phelps, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, *[St. Louis,]* Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington and Wayne, shall limit emissions of NO_x to the more stringent of a rate of 0.25 lbs*[.]* NO_x/million British thermal units per hour (mmBtu) of heat input during the control period or any applicable permitted NO_x limitation under 10 CSR 10-6.060.

2. EGUs located in the City of St. Louis and the counties of Franklin, Jefferson and St. Louis shall limit emissions of NO_x to the more stringent rate of 0.18 lbs NO_x/mmBtu of heat input during the control period, or any applicable permitted NO_x limitation under 10 CSR 10-6.060. For the purpose of calculating ERCs under subparagraph (3)(B)5.C. of this rule, the regulated NO_x emission rate (NO_xER_r) for units located in these areas shall be 0.25 lbs NO_x/mmBtu.

3. Cyclone EGUs located in the counties of Buchanan, Jackson, Jasper or Randolph shall limit emissions of NO_x to the more stringent rate of any applicable permitted NO_x limitation under 10 CSR 10-6.060 or the less stringent of:

A. 0.35 lbs NO_x/mmBtu of heat input during the control period; or

B. 0.68 lbs NO_x/mmBtu of heat input during the control period, provided that the unit burns tire-derived fuel in a quantity of at least one hundred thousand (100,000) PTEs per year. For installations with multiple cyclone EGUs, compliance with the one hundred thousand (100,000) PTE burned per year may also be based on the average number of PTEs burned per cyclone EGU.

[2.] **4.** EGUs**, other than cyclone EGUs,** located in any county not identified in paragraph (3)(A)1. **or (3)(A)2.** of this rule shall limit emissions of NO_x to the more stringent of a rate of 0.35 lbs*[.]* NO_x/mmBtu of heat input during the control period or any applicable permitted NO_x limitation under 10 CSR 10-6.060.

[3.] **5.** In lieu of complying with the applicable emission limitations in paragraph (3)(A)1. *[or (3)(A)2.]* **through (3)(A)4.** of this rule, any affected unit may comply through the NO_x emissions trading program under subsection (3)(B) of this rule.

(B) NO_x Emissions Trading Program.

1. NO_x authorized account representative. The NO_x authorized account representative shall have the responsibilities and meet the requirements identified in this subsection.

A. Each affected unit shall have only one NO_x authorized account representative with respect to all matters under the NO_x trading program. Each affected unit may have only one **(1)** alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative.

B. A NO_x authorized account representative may be responsible for multiple units at an installation or within a system of installations with the same owner.

C. The department will act on a valid submission made on behalf of owners or operators of an affected unit only if the submission has been made, signed and certified by the NO_x authorized account representative or the alternate NO_x authorized account representative.

D. Each unit must submit an account certificate of representation no later than January 1, *[2003]* **2004** or December 31 of the year in which the rule becomes applicable for units installed after January 1, *[2003]* **2004**.

2. NO_x allowance tracking system.

A. NO_x allowance tracking system accounts. The department will establish one **(1)** compliance account for each NO_x unit and one **(1)** overdraft account for each NO_x authorized account representative with one **(1)** or more NO_x units. Allocations of NO_x allowances pursuant to paragraphs (3)(B)3. or (3)(B)10. of this rule and deductions or transfers of NO_x allowances pursuant to paragraphs (3)(B)3., (3)(B)7., (3)(B)9., or (3)(B)10. of this rule will be recorded in the compliance accounts or overdraft accounts.

B. Establishment of accounts.

(I) Compliance accounts and overdraft accounts. Upon receipt of a complete account certificate of representation, the department will establish—

(a) A compliance account for each affected NO_x unit for which the account certificate of representation was submitted; and

(b) An overdraft account for each NO_x authorized account representative for which the account certificate of representation was submitted.

(II) Account identification. The department will assign a unique identifying number to each compliance account and each overdraft account.

C. Recording of NO_x allowance allocations.

(I) The department will record the NO_x allowances for the *[2003]* **2004** control period in the NO_x units' compliance accounts.

(II) Serial numbers for allocated NO_x allowances. The department will assign each NO_x allowance a unique identification number that will include digits identifying the year for which the NO_x allowance is allocated.

3. NO_x allowances.

A. Projected NO_x allowances.

(I) By March 1, *[2003]* **2004**, the NO_x authorized account representative for each affected unit shall submit to the department a report containing the following:

(a) The projected control period NO_x emission rate for each affected unit;

(b) The average of the three (3) most recent control period heat inputs, unless those three (3) periods are not representative of normal operation; and

(c) A plan identifying the methodology for compliance with subsection (3)(A) of this rule.

(II) The department will review each report and make any amendments within fifteen (15) working days.

(III) The department will develop a summary of projected NO_x allowances on a unit by unit and statewide basis for distribution on or before May 1 of each year using Equation 1 of this rule.

Equation 1:

$$\frac{HI_{[opt]p} \times ER_{[opt]p}}{2000} = NO_xAL_{[opt]p}$$

where:

HI_p = the projected control period heat input for each NO_x unit;

ER_p = the projected control period emission rate for each NO_x unit; and

NO_xAL_p = the projected NO_x allowance for each NO_x unit **rounded down to the nearest ton** (in tons).

B. Control period NO_x allowances.

(I) By October 31 following each control period, each NO_x authorized account representative shall submit to the department the actual total control period heat input and actual average emission rate in a compliance report consistent with requirements of section (4) of this rule for each affected NO_x unit.

(II) By November 15 following each control period, the department will issue a notice to each NO_x authorized account representative of the actual NO_x allowances for each affected NO_x unit using Equation 2 of this rule.

Equation 2:

$$\frac{HI_{[opt]a} \times ER_{[opt]r}}{2000} = NO_xAL_a$$

where:

HI_a = the actual control period heat input for each NO_x unit;

ER_r = the allowable control period emission rate for each NO_x unit as determined in paragraph (3)(A)1. *[or (3)(A)2.]* **through (3)(A)4.** of this rule; and

NO_xAL_a = the actual NO_x allowance for each unit for the control period **rounded down to the nearest ton** (in tons).

4. Compliance. By the end of the NO_x allowance transfer deadline, each NO_x unit shall have sufficient NO_x allowances in their compliance account to allow for the deductions in subparagraph (3)(B)4.B. of this rule.

A. NO_x allowance transfer deadline. The NO_x allowances are available to be deducted for compliance with a unit's NO_x emissions limitation for a control period in a given year only if the NO_x allowances—

(I) Were allocated for a control period in a prior year or the same year; and

(II) Are held in the unit's compliance account or the unit's overdraft account as of the NO_x allowance transfer deadline for that control period.

B. Deductions for compliance.

(I) The director will deduct NO_x allowances to cover the unit's NO_x emissions for the control period—

(a) From the compliance account; and

(b) Only if no more NO_x allowances available under subparagraph (3)(B)4.A. of this rule remain in the compliance account, from the overdraft account. In deducting allowances for units from the overdraft account, the director will begin with the unit having the compliance account with the lowest NO_x Allowance Tracking System account number and end with the unit having the compliance account with the highest NO_x Allowance Tracking System account number.

(II) The director will deduct NO_x allowances until the number of NO_x allowances deducted for the control period equals the number of tons of NO_x emissions, determined in accordance with part (3)(B)4.B.(III) of this rule, from the unit for the control period for which compliance is being determined; or until no more NO_x allowances available under subparagraph (3)(B)4.A. of this rule remain in the respective account.

(III) For a NO_x unit that is allocated NO_x allowances under part (3)(B)3.B.(II) of this rule for a control period, the department will deduct NO_x allowances under subparagraph (3)(B)4.B. or (3)(B)4.E. of this rule to account for the actual utilization of the unit during the control period. The department will calculate the number of NO_x allowances to be deducted to account for the unit's actual utilization using Equation 3 of this rule.

Equation 3:

$$\sum HI_a \times ER_a = NO_xAL_d$$

where:

HI_a = the actual control period heat input for each NO_x unit;

ER_a = the actual control period emission rate for each NO_x unit; and

NO_xAL_d = the number of NO_x allowances that will be deducted from each NO_x unit's compliance account **(truncated down to the nearest allowance)**.

C. Identification of NO_x allowances by serial number.

(I) The *[department]* **NO_x authorized account representative** may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under subparagraph (3)(B)4.B., (3)(B)4.D., or (3)(B)4.E. of this rule. Such identification will be made in the compliance certification report submitted in accordance with paragraph (4)(A)1. of this rule.

(II) *[First-in, first-out (FIFO).]* The **staff** director will deduct NO_x allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under part (3)(B)*[9.]***4.**C.(I) of this rule, or the overdraft account *[on a FIFO accounting basis]* in the following order:

(a) Those NO_x allowances that were allocated for the control period to the unit under part (3)(B)3.B.(II) of this rule;

(b) Those NO_x allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to paragraphs (3)(B)7. and (3)(B)8. of this rule, in order of their date of recording;

(c) Those NO_x allowances that were allocated for a prior control period to the unit under part (3)(B)3.B.(II) of this rule; and

(d) Those NO_x allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to paragraphs (3)(B)7. and (3)(B)8. of this rule, in order of their date of recording.

D. Deductions for units sharing a common stack. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with section (4) of this rule—

(I) The NO_x authorized account representative of the units shall identify the percentage of NO_x allowances to be deducted from each such unit's compliance account to cover the unit's share of NO_x emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (4)(A)1. of this rule.

(II) Notwithstanding part (3)(B)4.B.(II) of this rule, the director will deduct NO_x allowances for each unit until the number

of NO_x allowances deducted equals the unit's identified percentage (under part (3)(B)4.D.(I) of this rule) of the number of tons of NO_x emissions, as determined in accordance with section (4) of this rule, from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each unit, plus the number of allowances required for deduction to account for actual utilization under subparagraph (4)(A)1.G. of this rule for the control period.

E. The director will record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to subparagraphs (3)(B)4.B. and (3)(B)4.D. of this rule.

5. Banking.

A. NO_x allowances may be banked for future use or transfer into a compliance account or an overdraft account, as follows:

(I) Any NO_x allowance that is held in a compliance account or an overdraft account, will remain in such account until the NO_x allowance is deducted or transferred under paragraphs (3)(B)4., (3)(B)5., (3)(B)6., or (3)(B)7. of this rule.

(II) The director will designate, as a banked NO_x allowance, any NO_x allowance that remains in a compliance account or an overdraft account after the director has made all deductions for a given control period from the compliance account or overdraft account pursuant to paragraph (3)(B)4. of this rule.

B. Each year, starting in *[2004]* **2005**, after the director has completed the designation of banked NO_x allowances under part (3)(B)5.A.(II) of this rule and before May 1 of the year, the department will determine the extent to which banked NO_x allowances may be used for compliance in the control period for the current year, as follows:

(I) The director will determine the total number of banked NO_x allowances held in compliance accounts or overdraft accounts.

(II) If the total number of banked NO_x allowances determined, under part (3)(B)5.B.(I) of this rule, to be held in compliance accounts or overdraft accounts is less than or equal to ten percent (10%) of the sum of the NO_x trading program allocations for the previous control period, any banked NO_x allowance may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule.

(III) If the total number of banked NO_x allowances determined, under part (3)(B)5.B.(I) of this rule, and held in compliance accounts or overdraft accounts exceeds ten percent (10%) of the sum of the state trading program allocations for the previous control period, any banked allowance may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule, except as follows:

(a) The director will determine the adjustment factor using Equation 4 of this rule.

Equation 4:

$$AF = \frac{0.1 \times \sum NO_xAL_a}{\sum NO_xAL_b}$$

where:

[AL] **AF** = the adjustment factor;

$\sum NO_xAL_a$ = the sum of the statewide NO_x allowance allocated for the previous control period; and

$\sum NO_xAL_b$ = the sum of the banked NO_x allowances as determined under part (3)(B)5.B.(I) of this rule on January 1 of the current year;

(b) The director will determine the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule using Equation 5 of this rule. Any banked NO_x allowances in excess of the product of Equation 5 may be deducted for compliance in accordance with paragraph (3)(B)4. of this rule, except that, if such NO_x allowances are used to make a deduction, two (2) such NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under paragraph (3)(B)4. of this rule.

Equation 5:

$$AF \times NO_xAL_b$$

where:

AF = the adjustment factor calculated in Equation 4; and

NO_xAL_b = the number of NO_x allowances in a NO_x unit's account;

(IV) Geographic flow control.

(a) Banked NO_x allowances made available for use in parts (3)(B)5.B.(II) and (3)(B)5.B.(III) of this rule may be traded *[from the control region for which paragraph (3)(A)1. of this rule is applicable to the control region for which paragraph (3)(A)2. of this rule is applicable]* on a one to one (1:1) basis **unless otherwise specified in subparts (3)(B)5.B.(IV)(b) and (3)(B)5.B.(IV)(c) of this rule**.

(b) Banked NO_x allowances made available for use in parts (3)(B)5.B.(II) and (3)(B)5.B.(III) of this rule may be traded from the control region for which paragraph**s** (3)(A)*/2./***3. and (3)(A)4.** of this rule *[is]* **are** applicable to the control region for which paragraph (3)(A)1. of this rule is applicable on a one and one-half to one (1.5:1) basis.

(c) Banked NO_x allowances made available for use in part (3)(B)5.B.(II) and (3)(B)5.B.(III) of this rule may be traded from the control region for which paragraphs (3)(A)1., (3)(A)3. and (3)(A)4. of this rule are applicable to the control region for which paragraph (3)(A)2. of this rule is applicable on a one and one-half to one (1.5:1) basis.

C. Early Reductions. For any affected NO_x unit that reduces its NO_x emission rate in the 2000, 2001**,** *[or]* 2002 **or 2003** control period, the owner or operator of the unit may request early reduction allowances, and the department will allocate ERCs by January 31 of each year to the unit in accordance with the following requirements.

(I) Each NO_x unit for which the owner or operator requests any *[early reduction credits]* **ERCs** under part (3)(B)5.C.(IV) of this rule shall monitor NO_x emissions in accordance with section (4) of this rule for each control period for which such *[early reduction credits]* **ERCs** are requested. The unit's monitoring system availability shall be not less than ninety percent (90%) during the control period, and the unit must not have been found to be in violation of any applicable state or federal emissions or emissions-related requirements.

(II) NO_x emission rate and heat input under parts (3)(B)5.C.(III) through (3)(B)5.C.(V) of this rule shall be determined in accordance with section (4) of this rule.

(III) Each NO_x unit for which the owner or operator requests any *[early reduction credits]* **ERCs** under part (3)(B)5.C.(IV) of this rule shall reduce its NO_x emission rate, for each control period for which *[early reduction credits]* **ERCs** are requested, to less than the applicable requirement of *[paragraph (3)(A)1. or (3)(A)2.]* **subsection (3)(A)** of this rule.

(IV) The NO_x authorized account representative of a NO_x unit that meets the requirements of parts (3)(B)5.C.(I) and (3)(B)5.C.(III) of this rule may submit to the department a request for *[early reduction credits]* **ERCs** for the unit based on NO_x emission rate reductions made by the unit in the control period for 2000, 2001**,** *[or]* 2002 **or 2003** in accordance with part (3)(B)5.C.(III) of this rule.

(a) In the *[early reduction credit]* **ERC** request, the NO_x authorized account representative may request *[early reduction credits]* **ERCs** for such control period using Equation 6 of this rule.

Equation 6:

$$ERC = HI_a \times (NO_xER_r - NO_xER_a) \div 2000$$

where:

ERC = the *[early reduction credits]* **ERCs** accrued rounded **down** to the nearest ton of NO_x;

HI_a = the actual control period heat input for each NO_x unit;

NO_xER_r = the regulated NO_x emission rate as identified in paragraph (3)(A)1. *[or (3)(A)2.]* **through (3)(A)4.** of this rule; and

NO_xER_a = the actual control period emission rate for each NO_x unit.

(b) The *[early reduction credit]* **ERC** request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions are made.

(V) The department will allocate NO_x allowances no later than January 31 to NO_x units meeting the requirements of parts (3)(B)5.C.(I) and (3)(B)5.C.(III) of this rule and covered by early reduction requests meeting the requirements of subpart (3)(B)5.C.(IV)(b) of this rule.

(VI) NO_x allowances recorded under part (3)(B)5.C.(V) of this rule may be deducted for compliance under paragraph (3)(B)3. of this rule for the control periods in *[2003]* **2004** or *[2004]* **2005**. Notwithstanding subparagraph (3)(B)5.A. of this rule, the director will deduct as retired any NO_x allowance that is recorded under part (3)(B)5.C.(V) of this rule and is not deducted for compliance in accordance with paragraph (3)(B)3. of this rule for the control period in *[2003]* **2004** or *[2004]* **2005**.

(VII) NO_x allowances recorded under part (3)(B)5.C.(V) of this rule are not treated as banked allowances in *[2004]* **2005** for the purposes of subparagraphs (3)(B)5.A. and (3)(B)5.B. of this rule.

(VIII) Compliance set-aside account.

(a) The department will establish a compliance set-aside account, which will contain fifty percent (50%) of the *[early reduction credits]* **ERCs, rounded down to the nearest ton,** that are issued in accordance with part (3)(B)5.C.(II) of this rule.

(b) Fifty percent (50%) of the ERCs, rounded down to the nearest ton, in the compliance set-aside account will be sold to the NO_x authorized account representatives that apply for the ERCs and can demonstrate that the ERCs will be used for compliance by a unit that is in a research, development or trial stage for new air pollution control technology. If all fifty percent (50%) of the ERCs are not needed for these units, they will be sold in accordance with subpart (3)(B)5.C.(VIII)(c) of this rule.

[(b)] **(c)** *[Early reduction credits]* **The remaining ERCs in the compliance set-aside account** will be sold *[from the compliance set-aside pool by the department]* in the order of request *[to NO_x authorized account representatives requesting such credits]*.

*[(c)]***(d)** *[A]* NO_x authorized account representatives *[may]* **must** request *[early reduction credits]* **all of the ERCs needed** from the compliance set-aside account *[by submitting a report containing the following on or before October 31, 2003 and 2004 for the 2003 and 2004 control periods, respectively]* **for the 2004 and 2005 control periods by February 28, 2004. The request for ERCs shall include the following information**:

I. The owner and operator;

II. The NO_x authorized account representative;

III. The NO_x unit identification number and name;

[IV. The projected control period heat input and projected control period emission rate;]

*[V.]***IV.** The number of ERCs being requested; and

*[VI.]***V.** The overdraft or compliance account number.

*[(d)]***(e)** The department shall set the market rate for *[early reduction credits on January 1 of each year and shall review the rate quarterly]* **ERCs by February 1, 2003**. Market rate shall **not be set at a value below five hundred dollars ($500) per ERC nor in excess of one thousand dollars ($1,000) per ERC, and shall** be established based on the following in the order listed:

I. The average rate of exchange of NO_x credits *[for the most recent quarter]* **and ERCs in the Missouri NO_x Emissions Trading Program**; and

II. The most recent control cost data available.

*[(e)]***(f)** *[Proceeds from the sale of early reduction credits will be distributed to the owner of units issued ERCs under part (3)(B)5.C.(V) of this rule by percentage of issuance.]* **The department shall notify the successful purchasers of ERCs by April 1, 2004 and payment shall be made by the purchaser to the sellers by April 15, 2003 for ERCs purchased. Once payment has been received by the sellers, they shall notify the department and the appropriate ERCs shall be transferred to the appropriate account by May 1, 2004.**

(g) The ERCs will be sold from the compliance set-aside account on a percentage basis. Each purchaser will purchase a portion of each seller's ERCs.

(h) Once the appropriate ERCs are transferred to the purchaser's account, the ERCs are non-transferrable.

*[(f)]***(i)** Any ERC allowances remaining in the compliance set-aside account after *[October 31]* **May 1**, 2004, will be returned to the unit that generated the *[early reduction credits]* **ERCs by May 15, 2004**.

(IX) All ERCs will be retired on January 31, *[2005]* **2006**.

6. Account error. The director may correct any error in any NO_x Allowance Tracking System account. Within ten (10) business days of making such correction, the director will notify the NO_x authorized account representative for the account. The NO_x authorized account representative will then have ten (10) business days to appeal the correction if they feel the correction was made in error.

7. NO_x allowance transfers. The NO_x authorized account representatives seeking the recording of a NO_x allowance transfer shall submit the transfer request to the director. To be considered correctly submitted, the NO_x allowance transfer shall include the following elements in a format specified by the director:

A. The numbers identifying both the transferor and transferee accounts;

B. A specification by serial number of each NO_x allowance to be transferred; and

C. The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

8. Department recording.

A. Within five (5) business days of receiving a NO_x allowance transfer, except as provided in subparagraph (3)(B)9.B. of this rule, the department will record a NO_x allowance transfer by moving each NO_x allowance from the transferor account to the transferee account as specified by the request, provided that—

(I) The transfer is correctly submitted under paragraph (3)(B)8. of this rule;

(II) The transferor account includes each NO_x allowance identified by serial number in the transfer; and

(III) The transfer meets all other requirements of this paragraph.

B. A NO_x allowance transfer that is submitted for recording following the NO_x allowance transfer deadline and that includes any NO_x allowances allocated for a control period prior to or the same as the control period to which the NO_x allowance transfer deadline applies will not be recorded until after completion of the process of recording of NO_x allowance allocations of this rule.

C. Where a NO_x allowance transfer submitted for recording fails to meet the requirements of subparagraph (3)(B)9.A. of this rule, the department will not record such transfer.

9. Notification.

A. Notification of recording. Within five (5) business days of recording of a NO_x allowance transfer under paragraph (3)(B)8. of this rule, the department will notify each NO_x authorized account representative of the transfer in writing.

B. Notification of nonrecording. Within ten (10) business days of receipt of a NO_x allowance transfer that fails to meet the

requirements of paragraph (3)(B)7. of this rule, the department will notify in writing the NO_x authorized account representatives of both accounts subject to the transfer of—

(I) A decision not to record the transfer; and

(II) The reasons for such nonrecording.

10. Individual EGU opt-ins. An EGU that is not an affected unit under subsection (1)(A) of this rule that vents all of its emissions to a stack may qualify to become a NO_x opt-in unit under this paragraph of this rule. A NO_x opt-in unit will not be allowed to participate in the NO_x trading program without prior approval.

A. A NO_x opt-in unit shall have a NO_x authorized account representative.

B. Request for initial NO_x opt-in. In order to request to opt-in to the trading program, the NO_x authorized account representative of the unit must submit to the department at any time the following:

(I) The projected NO_x emission rate for each affected unit;

(II) The average of the three (3) most recent years heat input on a monthly basis over the control period for each affected unit; and

(III) A plan detailing the methodology for compliance with paragraph (3)(B)10. of this rule.

C. The department will review the request and respond within ninety (90) days of the date of receipt of the request.

D. Request for opting-in to the NO_x trading program must be received by the department no later than February 1 of the same year as the control period that the NO_x opt-in unit requests to begin participation in the NO_x trading program.

E. The NO_x opt-in units shall establish a baseline heat input and a baseline NO_x emissions rate under the requirements of subsection (5)(G) of this rule. After calculating the baseline heat input and the baseline NO_x emissions rate for the NO_x opt-in unit, the department will notify the NO_x authorized account representative of the unit of the resulting baseline.

F. The established baseline shall be the regulated NO_x emission rate for the opt-in unit. The NO_x opt-in unit shall meet the same schedule as all NO_x units with respect to all deadlines and schedules. The allowances issued to the opt-in unit under this paragraph shall be calculated using equation 7 of this rule.

Equation 7:

$$\frac{HI_{opt} \times ER_{opt}}{2000} = NO_xAL_{opt}$$

where:

HI_{opt} = the actual control period heat input for the NO_x opt-in unit;

ER_{opt} = the baseline emission rate for the NO_x opt-in unit as determined under subsection (5)(G) of this rule; and

NO_xAL_{opt} = the actual NO_x allowances for the opt-in unit for the control period (in tons).

G. If at any time before the approval of a NO_x opt-in unit, the department determines that the unit does not qualify as a NO_x opt-in unit under this paragraph, the department will issue a denial of the NO_x opt-in request for the unit.

H. Withdrawal of NO_x opt-in request. A NO_x authorized account representative of a unit may withdraw its request to opt-in at any time prior to the approval for the NO_x opt-in unit. Once the request for a NO_x opt-in unit is withdrawn, a NO_x authorized account representative seeking to reapply must submit a new request for a NO_x opt-in unit under this subsection.

I. Effective date. The effective date of the initial NO_x opt-in shall be May 1 of the first control period starting after the approval **of t**he NO_x opt-in unit by the department. The unit shall be a NO_x opt-in unit and an affected NO_x unit as of the effective date of the approval and be subject to the requirements of this rule.

J. Change in regulatory status. When a NO_x opt-in unit becomes an affected unit, the NO_x authorized account representative shall notify the department in writing of such change in the NO_x opt-in unit's regulatory status within thirty (30) days of such change.

K. Withdrawal from NO_x trading program. A NO_x opt-in unit may withdraw from the NO_x trading program if it meets the following requirements:

(I) To withdraw from the NO_x trading program, the NO_x authorized account representative of a NO_x opt-in unit shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.

(II) Before a NO_x opt-in unit may withdraw from the NO_x trading program, the following conditions must be met.

(a) For the control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report.

(b) If the NO_x opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the department will deduct from the NO_x opt-in unit's compliance account, or the overdraft account of the affected unit where the affected unit is located, the full amount required for the control period.

(III) A NO_x opt-in unit that withdraws from the NO_x trading program shall comply with all requirements under the NO_x trading program concerning all years for which such NO_x opt-in unit was a NO_x opt-in unit, even if such requirements must be complied with after the withdrawal takes effect.

(IV) Notification procedures shall be as follows:

(a) After the requirements for withdrawal under this paragraph have been met, the department will issue a notification to the NO_x authorized account representative of the NO_x opt-in unit of the acceptance of the withdrawal of the NO_x opt-in unit as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

(b) If the requirements for withdrawal under this paragraph have not been met, the department will issue a notification to the NO_x authorized account representative of the NO_x opt-in unit that the NO_x opt-in unit's request to withdraw is denied. If the NO_x opt-in unit's request to withdraw is denied, the NO_x opt-in unit shall remain subject to the requirements for a NO_x opt-in unit.

(V) A NO_x opt-in unit shall continue to be a NO_x opt-in unit until the effective date of the withdrawal.

(VI) Once a NO_x opt-in unit withdraws from the NO_x trading program, the NO_x authorized account representative may not submit another application for the NO_x opt-in unit prior to the date that is four (4) years after the date on which the withdrawal became effective.

11. Output based emissions trading of NO_x. *(Reserved)*

(4) Reporting and Record Keeping.

(A) Reporting.

1. A compliance certification report for each affected unit **subject to section (3) of this rule** shall be submitted to the department by October 31 following each control period. The report shall include:

A. The owner and operator;

B. The NO_x authorized account representative;

C. NO_x unit name, compliance and overdraft account numbers;

D. NO_x emission rate limitation (lb/mmBtu);

E. Actual NO_x emission rate (lb/mmBtu) for the control period;

F. Actual heat input (mmBtu) for the control period. The unit's total heat input for the control period in each year will be determined in accordance with section (5) of this rule; and

G. Actual NO_x mass emissions (tons) for the control period.

2. Reporting shall be based on the test methods identified in section (5) of this rule. Any unit with valid **continuous emission**

monitoring system (CEMS**)** data for the control period must use that data to determine compliance with the provisions of this rule. The owner or operator for each affected unit which performs non-CEMS testing to demonstrate compliance of a unit subject to section (3) of this rule shall submit:

A. A control period report identifying monthly fuel usage and monthly total heat input by December 31 of the same year as the control period; and

B. A written report of all stack tests completed after controls are effective to the department within sixty (60) days after completion of sample and data collection.

(B) Record Keeping.

1. Each owner or operator of an affected unit subject to section (3) of this rule shall maintain records of the following:

A. Total fuel consumed during the control period;

B. The total heat input for each emissions unit during the control period;

C. Reports of all stack testing conducted to meet the requirements of this rule;

D. All other data collected by a CEMS necessary to convert the monitoring data to the units of the applicable emission limitation;

E. All performance evaluations conducted in the past year;

F. All monitoring device calibration checks;

G. All monitoring system, monitoring device and performance testing measurements;

H. Records of adjustments and maintenance performed on monitoring systems and devices; and

I. A log identifying each period during which the CEMS or alternate procedure was inoperative, except for zero and span checks, and the nature of the repairs and adjustments performed to make the system operative.

2. All records must be kept on-site for a period of five (5) years and made available to the department upon request.

3. Each owner or operator of any gas- or oil-fired unit that qualifies for the low-emitter exemption in paragraph (1)(B)1. of this rule or the low hours of operation exemption in paragraph (1)(B)2. of this rule, shall maintain records of the total operating hours during which fuel is consumed for each emission unit during the control period. In the event that another record keeping schedule has been previously approved for the EGU and is included as an operating permit condition, the EGU may use that schedule to comply with this requirement.

(5) Test Methods and Monitoring. For units subject*[s]* to this rule, the following requirements shall apply:

[(C) If a CEMS is not applicable, an alternate procedure listed in 40 CFR part 75 Appendix E shall be performed every three thousand (3,000) operating hours or every five (5) years whichever is more frequent. Identical units may use procedures identified in 40 CFR part 75.19 for purposes of testing;]

*[(D)]***(C)** Coal-Fired Units. Any coal-affected unit subject to this rule shall install, certify, operate, maintain, and quality assure a NO_x and diluent CEMS pursuant to the requirements in 40 CFR part 75;

*[(E)]***(D)** Non-Exempt Peaking Units. Any gas- or oil-fired peaking unit that is subject to the emission limitation or trading aspects of this rule shall:

1. Install, certify, operate, maintain, and quality assure a NO_x and diluent CEMS; or

2. Install, certify, operate, and quality assure fuel-metering equipment pursuant to 40 CFR part 75, Appendix D and shall establish a NO_x-to-load curve pursuant to 40 CFR part 75, Appendix E;

*[(F)]***(E)** Exempt Units. *[Any gas- or oil-fired unit that qualifies for the low-emitter exemption in paragraph (1)(B)1. or the low hours of operation exemption in paragraph (1)(B)2. shall:*

1. Install, certify, operate, maintain, and quality assure a NO_x and diluent CEMS;

2. Install, certify, operate, maintain, and quality assure fuel-metering equipment pursuant to 40 CFR part 75, Appendix D and shall establish a NO_x-to-load curve pursuant to 40 CFR part 75, Appendix E; or

3. Estimate or measure NO_x emissions pursuant to the requirements in 40 CFR part 75, section 75.19; and]

1. The following hierarchy of methods may be used to determine if a unit qualifies for the low-emitter exemption in paragraph (1)(B)1. of this rule. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method should be used in its place:

A. CEMS as specified in 10 CSR 10-6.110;

B. Stack tests as specified in 10 CSR 10-6.110;

C. Material/mass balance;

D. AP-42 (Environmental Protection Agency (EPA) ***Compilation of Emission Factors*****) or FIRE (Factor Information and Retrieval System) (as updated);**

E. Other EPA documents as specified in 10 CSR 10-6.110;

F. Sound engineering calculations; or

G. Facilities shall obtain department pre-approval of emission estimation methods other than those listed in subparagraphs (5)(E)1.A. through (5)(E)1.F. of this rule before using such method to estimate emissions. In the event that such method has previously been approved for the EGU and included as an operating permit condition, the EGU may use that method to comply with this requirement.

2. Any gas- or oil-fired unit that qualifies for the low-emitter exemption in paragraph (1)(B)1. or the low hours of operation exemption in paragraph (1)(B)2. shall install and operate a non-resettable hour meter or determine the hours of operation for each emission unit during the control period. In the event that another monitoring method has previously been approved for the EGU and included as an operating permit condition, the EGU may use that method to comply with this requirement.

*[(G)]***(F)** Opt-In Units. Any unit that opts into the trading program, pursuant to paragraph (3)(B)10., shall be monitored consistent with the provisions of subsections *[(5)(E)]* **(5)(D)** and *[(5)(F)]* **(5)(E)** above. For the purpose of establishing the baseline allowance allocation, an opt-in unit shall install, certify, operate, maintain, and quality assure the monitoring device(s) and collect data for at least one (1) control season prior to submission of an opt-in application.

*AUTHORITY: section 643.050, RSMo [Supp. 1999] **2000**. Original rule filed Feb. 15, 2000, effective Sept. 30, 2000. Amended: Filed Dec. 4, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred ($500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities approximately $5,478,000 in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., March 27, 2003. The public hearing will be held at the Holiday Inn West Park Conference Center, Sierra Room, 3257 Williams Street, Cape Girardeau, MO 63702. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., April 3, 2003. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

FISCAL NOTE
PRIVATE ENTITY COST

I. RULE NUMBER

Title: 10 – Department of Natural Resources

Division: 10 – Air Conservation Commission

Chapter: 6 Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 10-6.350 Emission Limitations and Emissions Trading of Oxides of Nitrogen

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1	Electric Generating Facilities	$5,478,000

III. WORKSHEET

Table 1: Fiscal Impact on NOx Budget Units Affected by Proposed Amendment to 10 CSR 10-6.350

	Total Emission Reductions	FY2004	FY2005	FY2006	FY2007	FY2008
Ameren U.E.	3286 tons	$91,300	$547,800	$547,800	$547,800	$547,800

FY2009	FY2010	FY2011	FY2012	FY2013	FY2014	TOTAL COST
$547,800	$547,800	$547,800	$547,800	$547,800	$456,500	$5,478,000

IV. ASSUMPTIONS

1. For the convenience of calculating this fiscal note over a reasonable time frame, the life of the rule is assumed to be ten (10) years although the duration of the rule is indefinite. If the life of the rule extends beyond ten years, the annual costs for additional years will be consistent with the assumptions used to calculate annual costs as identified in this fiscal note.

2. For FY2004 and FY2014 the rule will be effective for only the last two (2) months and the first ten (10) months, respectively.

3. Cost estimates are based on a capital cost assumption of $1,667 per ton of NOx reduction. Capital costs are spread over the life of the rule.

4. Assume that only facilities in the city of St. Louis and the counties of Franklin, Jefferson and St. Louis will incur any cost as a result of this rule amendment.

5. The date on which affected electric generating units (EGUs) must be in compliance with this regulation is May 1, 2004.

6. NOx reductions are only required during the control period, which is May 1 through September 30.

7. The NOx emission numbers used in this fiscal note for EGUs are not intended to be the actual NOx allowances for each unit. The NOx emission numbers are for cost calculations only and are based on the NOx emissions inventory used in the St. Louis Ozone Nonattainment Area Attainment Demonstration. The actual NOx allowance allocations will be identified by the department as required by this rule.

8. Potential controls on which costs are based for EGUs include selective catalytic reduction, selective noncatalytic reduction, natural gas reburns and combustion controls.

9. Assume that some EGUs may experience a cost savings as a result of this rule amendment. The cost savings have not been reported to the department and are not reflected in this fiscal note.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 23—Division of Geology and Land Survey
Chapter 5—Heat Pump Construction Code

PROPOSED AMENDMENT

10 CSR 23-5.050 Construction Standards for Closed-Loop Heat Pump Wells. The secretary is amending section (9) by adding a new subsection.

PURPOSE: This amendment addresses the minimum construction standards for a properly constructed closed-loop heat pump well as provided in section 256.626, RSMo. This amendment establishes an additional approved grout material.

(9) Approved Grout Materials. The following *[three (3)]* **four (4)** grout types are permitted for use in heat pump wells:

(B) Nonslurry Bentonite. Chipped or pelletized bentonite varieties that are designed to fall through standing water may only be used when sealing the annulus of a well that is below the water level in the saturated zone. Complete hydration is difficult to achieve when using dry nonslurry bentonite in the unsaturated zone. All nonslurry sodium bentonite varieties may be used in the unsaturated zone if the hole is dry and no bridging occurs. The dry bentonite must be hydrated after emplacement. The effective use of nonslurry bentonite as a sealing agent depends on the efficient hydration of the product; *[and]*

(C) Thermal Grout Slurry. Grout containing at least seven and one-half percent (7.5%) by weight bentonite solids and at least sixty-five percent (65%) by weight silica solids may be used as grout. The grout slurry mixture must exhibit a thermal conductivity greater than 0.85 Btu/hr. ft. degree F and permeability not more than 1×10^{-7} cm/s. Specialized pumps are required and the slurry mixture must be installed full-length in one (1) continuous motion, through a tremie lowered to a grouting point within twenty feet (20') of the base of the borehole; and

*[(C)]***(D)** Other Grout. Other types of grout may be used if approval is granted in advance by the division.

AUTHORITY: sections 256.606 and 256.626, RSMo [1994] 2000. Emergency rule filed Nov. 16, 1993, effective Dec. 11, 1993, expired April 9, 1994. Original rule filed Aug. 17, 1993, effective March 10, 1994. Amended: Filed July 13, 1994, effective Jan. 29, 1995. Amended: Filed Nov. 1, 1995, effective June 30, 1996. Amended: Filed Dec. 16, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate. No net increase in personnel will be required to implement this proposed amendment.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate. Net cost for construction of heat pump wells is not changed by implementation of the proposed amendment.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Natural Resources, Geological Survey and Resource Assessment Division, PO Box 250, Rolla, MO 65402-0250, attention Mr. Bob Archer. If hand delivered, comments must be brought to the offices of the Department of Natural Resources, Geological Survey and Resource Assessment Division, 111 Fairgrounds Road, Rolla, Missouri. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. A public hearing is scheduled for February 20, 2003, at 10:00 a.m. in the offices of the Department of Natural Resources, Geological Survey and Resource Assessment Division, 111 Fairgrounds Road, Rolla, Missouri.*

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

PROPOSED RESCISSION

12 CSR 10-26.100 Advertising Regulation. This rule set forth requirements to ensure truthful advertising practices by licensees as required in section 301.562, RSMo.

PURPOSE: This rule is being rescinded due to the passage of section 301.567, RSMo, effective August 28, 2002, which supercedes the contents of this rule.

AUTHORITY: sections 301.553 and 301.562, RSMo Supp. 1998. Original rule filed Nov. 1, 1999, effective May 30, 2000. Rescinded: Filed Dec. 16, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program

PROPOSED AMENDMENT

13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services. The division is amending section (13).

PURPOSE: This proposed amendment amends the high volume adjustment to allow partial-year cost reports to be combined to comprise a full year and to include hospice days paid by Medicaid in determination of occupancy.

(13) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed elsewhere in this regulation, a facility's reimbursement rate may be adjusted as described in this section.

(B) Special Per Diem Rate Adjustments. Special per diem rate adjustments may be added to a qualifying facility's rate without regard to the cost component ceiling if specifically provided as described below.

1. Patient care incentive. Each facility with a prospective rate on or after January 1, 1995, shall receive a per diem adjustment equal to ten percent (10%) of the facility's allowable patient care per diem subject to a maximum of one hundred thirty percent (130%) of the patient care median when added to the patient care per diem as determined in subsection (11)(A). This adjustment will not be subject to the cost component ceiling of one hundred twenty percent (120%) for the patient care median.

2. Ancillary incentive. Each facility with a prospective rate on or after January 1, 1995, and which meets one (1) of the following criteria shall receive a per diem adjustment:

A. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is below ninety percent (90%) of the ancillary median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) and ninety percent (90%) of the ancillary median. The following is an illustration of how the ancillary per diem adjustment is calculated:

120% of median	$6.62
90% of median	$4.97
Difference	$1.65
1/2 the difference	2
Per diem adjustment	$ .83

B. If the facility's allowable ancillary per diem as determined in subsection (11)(B) is between ninety percent (90%) and one hundred twenty percent (120%) of the median, the adjustment is equal to one-half (1/2) of the difference between one hundred twenty percent (120%) of the median and the facility's allowable ancillary per diem. The following is an illustration of how the ancillary per diem adjustment is calculated:

90% of median	$4.97
120% of median	$6.62
Ancillary per diem	$5.21
Difference	$1.41
1/2 the difference	2
Per diem adjustment	$ .71

3. Multiple component incentive. Each facility with a prospective rate on or after January 1, 1995, and meets the following criteria shall receive a per diem adjustment:

A. If the sum of the facility's patient care per diem and ancillary per diem, as determined in subsections (11)(A) and (B), is greater than or equal to sixty percent (60%) but less than or equal to eighty percent (80%), rounded to four (4) decimal places (.5985 or .8015 would not receive the adjustment), of the facility's total per diem, the adjustment is as follows:

Percent of Total Per Diem Rate	Incentive
< 60%	$0.00
> or = 60% but < 65%	$1.15
> or = 65% but < 70%	$1.30
> or = 70% but < 75%	$1.45
> or = 75% but < or 80% =	$1.60

B. A facility shall receive an additional incentive if it receives the adjustment in subparagraph (13)(B)3.A. and the following calculation is greater than seventy-five percent (75%), rounded to four (4) decimal places (.7485 would not receive the adjustment): Medicaid days divided by the licensed nursing facility patient days from the facility's desk audited and/or field audited 1992 cost report. The adjustment is as follows:

Calculated Percentage	Incentive
< 75%	$0.00
> or = 75% but < 80%	$0.15
> or = 80% but < 85%	$0.30
> or = 85% but < 90%	$0.45
> or = 90% but < 95%	$0.60
> or = 95%	$0.75

4. 1967 *Life Safety Code* (LSC). Currently certified nursing facilities that must comply with a recent interpretation of paragraph 10-133 of the 1967 LSC which requires corridor walls to extend to the roof deck or achieve equivalency under the Fire Safety Evaluation System (FSES) will be reimbursed the reasonable and necessary cost to meet those standards required for compliance through their reimbursement rate. The reimbursement shall not be effective until the Division of Aging has confirmed that the corrective action to comply with the 1967 LSC or FSES is operational and has reviewed the cost for compliance. Fire sprinkler systems shall be reimbursed over a depreciation life of twenty-five (25) years, and other alternative corrective action will be reimbursed over a depreciable life of fifteen (15) years. The division will use a desk audited and/or field audited cost report with the latest period ending in calendar year 1992 which is on file with the division as of December 31, 1993. This adjustment will be computed based on the documented cost submitted to the division as follows:

A. Depreciation. The cost incurred for the approved corrective action to continue in compliance divided by the depreciable useful life;

B. Interest. The interest cost incurred to finance this project shall be documented by a statement from the lending institution detailing the total interest cost of the loan period. The total interest cost will be divided by the loan period on a straight line basis; and

C. The total of subparagraph (13)(B)4.A. and B. will be divided by twelve (12) and then multiplied by the number of months covered by the 1992 cost report. This amount will be divided by the greater of actual patient days from the 1992 cost report or eighty-five percent (85%) of the licensed bed days from the 1992 cost report.

5. Any facility that had a 1967 LSC adjustment included in their December 31, 1994 reimbursement rate shall have that adjustment added to their January 1, 1995 reimbursement rate.

6. Replacement beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for replacement beds that resulted in the same number of beds being delicensed with the Division of Aging or the Department of Health. The facility shall provide documentation from the Division of Aging or the Department of Health that verifies the number of beds used for replacement have been delicensed from that facility. The rate adjustment will be calculated as the difference between the capital component per diem (fair rental value (FRV)) prior to the replacement beds being placed in service and the capital component per diem (FRV) including the replacement beds placed in service as calculated in subsection (11)(D) including the replacement beds placed in service. The capital component is calculated for the replacement beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the replacement beds are placed in service.

7. Additional beds. A facility with a prospective rate in effect on or after January 1, 1995, may request a rate adjustment for additional beds. The facility must obtain an approved certificate of need or applicable waiver for the additional beds. The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the additional beds being placed in service and the capital component per diem (FRV) including the additional beds as calculated in subsection (11)(D) including the additional beds placed in service. The capital component is calculated for the additional beds using the asset value per licensed bed as determined using the R. S. Means Construction Index for nursing facility beds adjusted for the Missouri indexes for the date the additional beds are placed in service.

8. Extraordinary circumstances. A participating facility which has a prospective rate may request an adjustment to its prospective rate due to extraordinary circumstances. This request must be submitted in writing to the division within one (1) year of the occurrence of the extraordinary circumstance. The request must clearly and specifically identify the conditions for which the rate adjustment is sought. The dollar amount of the requested rate adjustment must be supported by complete, accurate and documented records satisfactory to the division. If the division makes a written request for additional information and the facility does not comply within ninety (90) days of the request for additional information, the division shall consider the request withdrawn. Requests for rate adjustments that have been withdrawn by the facility or are considered withdrawn because of failure to supply requested information may be resubmitted once for the requested rate adjustment. In the case of a rate adjustment request that has been withdrawn and then resubmitted, the effective date shall be the first day of the month in which the resubmitted request was made providing that it was made prior to the tenth day of the month. If the resubmitted request is not filed by the tenth of the month, rate adjustments shall

be effective the first day of the following month. Conditions for an extraordinary circumstance are as follows:

A. When the provider can show that it incurred higher costs due to circumstances beyond its control, the circumstances were not experienced by the nursing home industry in general and the costs have a substantial cost effect;

B. Extraordinary circumstances include:

(I) Natural disasters such as fire, earthquakes and flood that are not covered by insurance and that occur in a federally declared disaster area; and

(II) Vandalism and/or civil disorder that are not covered by insurance; and

C. The rate increase shall be calculated as follows:

(I) The one (1)-time costs, (costs that will not be incurred in future fiscal years):

(a) To determine what portion of the incurred costs will be paid, the division will use the patient occupancy days from latest available quarterly occupancy survey from the Division of Aging for the time period preceding when the extraordinary circumstances occurred; and

(b) The costs directly associated with the extraordinary circumstances will be multiplied by the above percent. This amount will be divided by the paid days for the month the rate adjustment becomes effective per paragraph (13)(B)8. This calculation will equal the amount to be added to the prospective rate for only one (1) month, which will be the month the rate adjustment becomes effective. For this one (1) month only, the ceiling will be waived.

(II) For ongoing costs (costs that will be incurred in future fiscal years): Ongoing annual costs will be divided by the greater of: annualized (calculated for a twelve (12)-month period) total patient days from the latest cost report on file or eighty-five percent (85%) of annualized total bed days. This calculation will equal the amount to be added to the respective cost center, not to exceed the cost component ceiling. The rate adjustment, subject to ceiling limits will be added to the prospective rate.

(III) For capitalized costs, a capital component per diem (FRV) will be calculated as determined in subsection (11)(D). The rate adjustment will be calculated as the difference between the capital component per diem (FRV) prior to the extraordinary circumstances and the capital component per diem (FRV) including the extraordinary circumstances.

9. Quality Assurance Incentive.

A. Each nursing facility with an interim or prospective rate on or after July 1, 2000, shall receive a per-diem adjustment of $3.20. The Quality Assurance Incentive adjustment will be added to the facility's current rate.

B. The Quality Assurance Incentive per-diem increase shall be used to increase the expenditures to a nursing facility's direct patient care costs. Direct patient care costs include all expenses in the patient care cost component (i.e., lines 46 through 69 of Schedule B in the Title XIX Cost Report). Any increases in wages and benefits already codified in a collective bargaining agreement in effect as of July 1, 2000, will not be counted towards the expenditure requirements of the Quality Assurance Incentive as stated above. Nursing facilities with collective bargaining agreements shall provide such agreements to the division.

10. High volume adjustment. Effective for dates of service July 1, 2000, a high volume adjustment shall be granted to qualifying providers. A provider must qualify each July 1, the beginning of each state fiscal year (SFY), for the high volume adjustment and the adjustment will be effective for services rendered during the SFY, July 1 through June 30. For a provider who has a high volume adjustment on June 30, but does not qualify for the high volume adjustment on July 1 of the subsequent SFY, that provider's prospective rate will be reduced by the amount of the high volume adjustment included in the facility's prospective rate in effect June 30.

A. Each facility with a prospective rate on or after July 1, 2000, and which meets all of the following criteria shall receive a per diem adjustment:

(I) Have on file at the division a full twelve (12)-month cost report ending in the third calendar year prior to the state fiscal year in which the adjustment is being determined (i.e., for SFY 2001, the third prior year would be 1998, for SFY 2002, the third prior year would be 1999, etc.);

(II) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds eighty-five percent (85%) of the total patient days for all nursing facility licensed beds;

(III) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care, ancillary and administration cost components, as set forth in paragraphs (11)(A)1., (11)(B)1. and (11)(C)1., exceeds the per diem ceiling for each cost component in effect at the end of the cost report period; and

(IV) State owned or operated facilities shall not be eligible for this adjustment.

B. The adjustment will be equal to ten percent (10%) of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. Effective July 1, 2002, the adjustment shall not accumulate from year to year.

C. The division may reconstruct and redefine the qualifying criteria and payment methodology for the high volume adjustment.

D. Second tier high volume adjustment. Effective for dates of service July 1, 2002, a second tier high volume adjustment shall be granted to qualifying providers.

(I) If a nursing facility qualifies for the first tier high volume adjustment, as set forth above in subparagraph (13)(B)10.A., it may qualify for the second tier adjustment if it meets the following criteria:

(a) The Medicaid patient days as determined from the cost report identified in part (13)(B)10.A.(I) exceeds ninety-three percent (93%) of the total patient days for all nursing facility licensed beds;

(b) The allowable cost per patient day as determined by the division from the applicable cost report for the patient care cost component, as set forth in paragraph (11)(A)1., exceeds one hundred twenty percent (120%) of the per diem ceiling for the patient care cost component in effect at the end of the cost report period; and

(c) The allowable cost per patient day as determined by the division from the applicable cost report for the administration cost component, as set forth in paragraph (11)(C)1., is less than one hundred fifty percent (150%) of the per diem ceiling for the administration cost component in effect at the end of the cost report period.

(II) The second tier high volume adjustment will be calculated as a percentage, to be determined by the Department of Social Services, of the sum of the per diem ceilings for the patient care, ancillary and administration cost components in effect on July 1 of each year. The adjustment for state fiscal year 2003 shall be eighteen dollars and fifty-six cents ($18.56) per Medicaid day.

(a) The adjustment shall be distributed based on a quarterly amount, in addition to per diem payments, based on Medicaid days determined from the paid day report from Missouri's fiscal agent for pay cycles during the immediately preceding state fiscal year.

(b) The state share of the second tier high volume adjustment shall come from certified public funds. If the aggregate certified public funds are less than the state match required, the total aggregate second tier high volume adjustment will be adjusted downward accordingly.

(III) A nursing facility must qualify for the adjustment each year to receive the additional quarterly payments.

E. High volume adjustment for nursing facilities without a full twelve (12)-month cost report. Effective for dates of service on or after January 17, 2003, the full twelve (12)-month cost

report requirement set forth in (13)(B)10.A.(I) shall include nursing facilities that have on file at the division two (2) partial year cost reports that when combined cover a full twelve (12)-month period.

F. Medicaid hospice days to be included in determination of Medicaid occupancy. Effective for dates of service on or after January 17, 2003, the Medicaid patient days used to determine the Medicaid occupancy requirement set forth in (13)(B)10.A.(II) shall be calculated by adding the days paid for by the Medicaid nursing facility program plus the days paid for by the Medicaid hospice program from the cost report identified in part (13)(B)10.A.(I).

11. Minimum Rate Adjustment. A minimum rate adjustment shall be granted to qualifying providers, as follows:

A. Effective for dates of service beginning July 1, 2001, the minimum Medicaid reimbursement rate for nursing facility services shall be eighty-five dollars ($85).

AUTHORITY: sections 208.153, 208.159 and 208.201, RSMo 2000. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the ***Code of State Regulations****. Emergency amendment filed Jan. 3, 2003, effective Jan. 17, 2003, expires July 15, 2003. Amended: Filed Jan. 3, 2003.*

PUBLIC COST: This proposed amendment is expected to cost state agencies or political subdivisions two hundred two thousand five hundred twelve dollars ($202,512) in the aggregate in SFY 2003. A fiscal note containing details of the estimated cost of compliance has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate in SFY 2003.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. RULE NUMBER

Rule Number and Name:	13 CSR 70-10.015 Prospective Reimbursement Plan for Nursing Facility Services
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services Division of Medical Services	$202,512

III. WORKSHEET

Estimated SFY 03 days Jan. 17 – June 30	28,205
X Add-On Rate	x $7.18
Estimated SFY 03 impact	$202,512

IV. ASSUMPTIONS

Two additional nursing facilities (NFs) qualify for the high volume adjustment due to the proposed amendment. The NFs estimated Medicaid days for SFY 03 were projected for the five and a half months (5 ½) remaining in SFY 03.

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.020 Employee Contributions. The board is amending sections (1)–(3).

PURPOSE: This amendment amends the payroll contributions required from employees both in counties which are members of the Local Government Employees' Retirement System and those counties which are not members of the Local Government Employees' Retirement System.

(1) A participant who is not a member of Local Government Employees' Retirement System (LAGERS) is subject to a two percent (2%) monthly payroll deduction beginning with the first payroll period after the participant's entry date**; except that, for each payroll period ending after December 31, 2002, a participant who is not a member of LAGERS and who is hired or rehired by a county on or after February 25, 2002, is subject to a monthly payroll deduction of not less than two percent (2%) and not more than six percent (6%), in accordance with sections 50.1020(6) and 50.1040(2), RSMo and with 16 CSR 50-2.080**. *[This]* **Any** payroll deduction **described in this section** shall constitute the participant's required contribution to the plan and *[after January 1, 2000,]* shall be designated as an employer "pick-up" contribution, as described in section 414(h)(2) of the *Internal Revenue Code*. A participant may not waive this contribution, or terminate this contribution requirement by opting out of the plan.

(2) *[Participants]* **For each payroll period ending after December 31, 2002, participants** who are members of LAGERS **and who are hired or rehired by a county on or after February 25, 2002,** are *[not]* subject to *[any payroll deductions in connection with their participation in the plan]* **a monthly payroll deduction not to exceed four percent (4%), in accordance with sections 50.1020(6) and 50.1040(2), RSMo and 16 CSR 50-2.080**. **Any payroll deduction pursuant to this section shall constitute the participant's required contribution to the plan and shall be designated as an employer "pick-up" contribution, as described in section 414(h)(2) of the *Internal Revenue Code*. A participant may not waive this contribution, or terminate this contribution requirement by opting out of the plan**.

(3) Contributions Required from Part-Time Employees *[in Non-LAGERS Counties]*. Participants *[in non-LAGERS counties]* have two (2) options with regard to the prior service earned while they are still qualifying for entry into the plan. A participant must make his or her election to either forego or purchase this prior service as outlined in subsections (A) and (B) upon their entry into the plan at the first available entry date. Such participant may either—

(B) *[Purchase]* **A participant who is a member of LAGERS and who is hired by a county on or after February 25, 2002, may purchase prior service earned on or after January 1, 2003 at the rate of four percent (4%) times the total compensation earned during this prior service period. A participant who is a member of LAGERS is not required to purchase prior service earned on or before December 31, 2002. A participant who is not a member of LAGERS and who is hired by a county on or after February 25, 2002, may purchase prior service earned on or after January 1, 2003 at the rate of six percent (6%), and service earned before January 1, 2003 at the rate of two percent (2%), times the total compensation earned during this prior service period. Any other participant who is not a member of LAGERS may purchase** the prior service at the rate of two percent (2%) times the total compensation earned during this prior service period. Participants selecting this option may purchase the prior service with a lump-sum contribution or through *[monthly]* **periodic** payroll deductions**, in accordance with such procedures as established by the board,** in addition to the regular *[monthly]* **periodic** payroll deduction. If the participant elects to purchase the prior service with an additional payroll deduction, then the deduction shall not extend longer than the period of prior service being purchased.

*AUTHORITY: section 50.1032, RSMo [Supp. 1999] **2000**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed July 29, 1997, effective Jan. 30, 1998. Amended: Filed June 1, 1999, effective Nov. 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.040 Separation from Service Before Retirement. The board is amending section (3).

PURPOSE: This amendment clarifies the effect of a separation from service on a participant's benefit.

(3) Members who terminate employment and then resume employment with an employer within thirty (30) days will not forfeit their prior service**,** *[and]* will not be required to receive a refund of their payroll contributions **and will not be deemed to have been rehired**.

*AUTHORITY: section 50.1032, RSMo [Supp. 1999] **2000**. Original rule filed Oct. 11, 1995, effective May 30, 1996. Amended: Filed Sept. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.080 Source of Pension Funds. The broad is amending sections (1) and (2) and adding a new section (4).

PURPOSE: This amendment amends the source of funds available to the plan.

(1) The source of contributions to this plan (if required) for a plan year shall be the funds described in sections 50.1020, 50.1190, 50.1200 and 150.150, RSMo that have been accumulated during the plan year. Such funds shall be held in a separate account until the board determines, in accordance with the advice of the actuary, the amount of such funds that must be contributed to this plan for a plan year to maintain its actuarial sufficiency. The board shall ensure that sufficient amounts shall be contributed so that this plan is funded in a manner consistent with the provisions of the *Internal Revenue Code* and such other laws and regulations as shall be applicable. The remainder of funds accumulated in the separate account during a plan year shall **first be used to pay expenses of the defined contribution plan established in sections 50.1210 to 50.1260, RSMo and then any remaining amounts shall** be contributed to the defined contribution plan established in sections 50.1210 to 50.1260, RSMo.

(2) Any gains arising from the death of participants prior to retirement or forfeiture upon separation from service shall not be utilized to increase the benefits to the remaining participants*[, but shall be retained in the trust fund]*. **Any such forfeitures that derive from a county's contribution (and not from a payroll deduction) made pursuant to section 50.1020(6), RSMo shall remain in the trust fund, and the amount of such forfeited county contribution shall be used to reduce future contributions for the county which made such contribution. Any such gains or forfeitures that derive from any other source shall be retained in the trust fund.**

(4) Each county, except counties of the first classification with a charter form of government and any city not within a county, shall deposit in the plan each payroll period ending after December 31, 2002, an amount equal to four percent (4%) of the compensation paid in such payroll period to each employee hired or rehired by that county on or after February 25, 2002. Such deposit shall be paid out of the county funds or, at the county's election, in whole or in part through payroll deduction as described in section 50.1040(2), RSMo. Any county that elects to pay the deposit described herein, in whole or in part, through payroll deduction as described in section 50.1040(2), RSMo, shall provide the board written notice of such election at least thirty (30) days before January 1 of the year for which such election is to be effective. Such election shall remain effective until revoked by the county in writing to the board at least thirty (30) days before January 1 of the year for which such election is to be revoked. Any election or revocation of the election described herein shall become effective on the January 1 following thirty (30) days' written notice from the county to the board of such election or revocation.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 2—Membership and Benefits

PROPOSED AMENDMENT

16 CSR 50-2.090 Normal Retirement Benefit. The board is amending section (4).

PURPOSE: This amendment amends the definition of LAGERS participant in section (4).

(4) LAGERS Participant Defined. Generally, a participant is considered a member of LAGERS with respect to a period of creditable service (including prior service) if he or she has been exempt from making the mandatory two percent (2%) contribution on account of his or her membership in LAGERS**; except that, each payroll period ending after December 31, 2002, participants who are members of LAGERS and who are hired or rehired by a county on or after February 25, 2002, are subject to a monthly payroll deduction not to exceed four percent (4%), but not the additional mandatory two percent (2%) contribution that potentially subjects a participant who is not a member of LAGERS to a monthly payroll deduction not to exceed six percent (6%)**. Accordingly, the formula set forth in section (3) shall be used to determine a participant's benefit for such period of creditable service. If a participant ceases to qualify for active membership or ceases to be an active member in LAGERS, the formula described in section (2) shall be used to determine the participant's benefit for the creditable service earned during periods when the participant ceased to so qualify or ceased to be an active member in LAGERS. If a participant receives a refund of contributions from LAGERS, pursuant to section 70.690, RSMo, then the formula described in section (3) shall be used to determine the participant's benefit, if the participant makes an additional contribution to the plan. The amount of such additional contribution shall be equal to two percent (2%) of the participant's compensation for the period in which he or she was a LAGERS participant (plus any interest and penalties assessed by the board). The amount may be paid in one lump sum, or by payroll deduction.

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

Title 16—RETIREMENT SYSTEMS
Division 50—The County Employees' Retirement Fund
Chapter 3—Creditable Service

PROPOSED AMENDMENT

16 CSR 50-3.010 Creditable Service. The board is amending subsection (2)(E).

PURPOSE: This amendment clarifies what constitutes creditable service under the plan, and how such service may be purchased, in subsection (2)(E).

(2) Excluded Service. Unless the participant purchases such service in accordance with section (3), a participant's creditable service shall not include:

(E) Service after a participant's entry date, if the required *[two percent (2%)]* contribution**, determined in accordance with 16 CSR 50-2.020,** is not withheld from the participant's pay **or otherwise paid by the county** for any reason; or

AUTHORITY: section 50.1032, RSMo [Supp. 1999] 2000. Original rule filed Oct. 11, 1995, effective May 30, 1996. Rescinded and readopted: Filed Sept. 29, 2000, effective March 30, 2001. Amended: Filed Dec. 10, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the County Employees' Retirement Fund, PO Box 2271, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.300 Definitions for the Certificate of Need Process. This rule defined the terms used in the Certificate of Need (CON) review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.300 Definitions for the Certificate of Need Process

PURPOSE: This rule defines the terms used in the Certificate of Need (CON) review process.

(1) Applicant means all owner(s) and operator(s) of any new institutional health service.

(2) By or on behalf of a health care facility includes any expenditures made by the facility itself as well as capital expenditures made by other persons that assist the facility in offering services to its patients/residents.

(3) Cost means:

(A) Price paid or to be paid by the applicant for a new institutional health service to acquire, purchase or develop a health care facility or major medical equipment; or

(B) Fair market value of the proposed health care facility or major medical equipment as determined by the current selling price at the date of the application as quoted by builders or architects for similar facilities or normal suppliers of the requested equipment.

(C) For the development of a new health care facility to be licensed under Chapter 198, RSMo, on the campus of an existing health care facility, but of a different licensure category, where support space and services such as administration, dining and laundry would be acquired from the existing facility, the following specific proportional and new costs shall apply:

1. If existing licensed bed space is to be utilized for the new facility, the cost (f) shall be determined by using the formula [((a ÷ b) × c) + d + e = f] in the following manner:

A. Divide the number of beds in the proposed new facility (a), by the total number of beds in the existing facility (b);

B. Multiply the above result by the total appraised value of the existing facility, including land, building, equipment and other improvements (c); and

C. Add the above result to all additional renovations (d), and/or new equipment (e), needed for the proposed new facility; or

2. If a newly constructed unit is to be added to an existing licensed facility, cost (f) shall be determined by using the formula [((a ÷ (a + b)) × c) + d + e = f] in the following manner:

A. Divide the number of beds in the proposed new facility (a), by the total number of beds in the existing facility (b) added to the proposed new facility (a);

B. Multiply the above result by the total appraised value of the existing support space and equipment (c); and

C. Add the above result to all new capital costs (d), and/or new equipment costs (e) to be incurred.

(4) Construction of a new hospital means the establishment of a newly-licensed facility at a specific location under the Hospital Licensing Law, section 197.020.2, RSMo, as the result of building, renovation, modernization, and/or conversion of any structure not licensed as a hospital.

(5) Expedited application means a shorter than full application and review period as defined in 19 CSR 60-50.420 and 19 CSR 60-50.430 for any long-term care expansion or replacement as defined in sections 197.318.8–10, RSMo, long-term care renovation and modernization, or the replacement of any major medical equipment as defined in section (14) of this rule which holds a Certificate of Need (CON) previously granted by the Missouri Health Facilities Review Committee (Committee). Applications for replacement of major medical equipment not previously approved by the Committee should apply for a full review.

(6) Full review means the complete analytical period for applications as described in 19 CSR 60-50.420 and 19 CSR 60-50.430 for the development of health care facilities and acquisition of major medical equipment.

(7) Generally accepted accounting principles pertaining to capital expenditures include, but are not limited to:

(A) Expenditures related to acquisition or construction of capital assets;

(B) Capital assets are investments in property, plant and equipment used for the production of other goods and services approved by the Committee; and

(C) Land is not considered a capital asset until actually converted for that purpose with commencement of aboveground construction approved by the Committee.

(8) Health care facility means those described in section 197.366, RSMo, which replaces section 197.305.7, RSMo.

(9) Health care facility expenditure includes the capital value of new construction or renovation costs, architectural/engineering fees, equipment not in the construction contract, land acquisition costs, consultants'/legal fees, interest during construction, predevelopment costs as defined in section 197.305(13), RSMo, in excess of one hundred fifty thousand dollars ($150,000), any existing land and building converted to medical use for the first time, and any other capitalizable costs as listed on the "Proposed Project Budget" form MO 580-1863.

(10) Health maintenance organizations means entities as defined in section 354.400(10), RSMo, except for activities directly related to the provision of insurance only.

(11) Interested party means any licensed health care provider or other affected person who has expressed an interest in the CON process or a CON application.

(12) Long-Term Acute Care (LTAC) hospital means any facility licensed under Chapter 197, RSMo, meeting the requirements described in 42 CFR section 412.23(e).

(13) Long-term care beds include:

(A) Beds in a facility licensed in accordance with Chapter 198, RSMo, including residential care facility (RCF) I and II, intermediate care facility (ICF) and skilled nursing facility (SNF);

(B) Beds designated as ICF or SNF in a Chapter 197, RSMo, licensed hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo; or

(C) Beds in a LTAC hospital meeting the requirements described in 42 CFR section 412.23(e).

(14) Major medical equipment means any piece of equipment and collection of functionally related devices acquired to operate the equipment and additional related costs such as software, shielding, and installation, with an aggregate cost of one million dollars ($1,000,000) or more, when the equipment is intended to provide the following services:

(A) Cardiac Catheterization;

(B) CT (Computed Tomography);

(C) Gamma Knife;

(D) Hemodialysis;

(E) Lithotripsy;

(F) MRI (Magnetic Resonance Imaging);

(G) PET (Positron Emission Tomography);

(H) Linear Accelerator;

(I) Open Heart Surgery;

(J) EBCT (Electron Beam Computed Tomography);

(K) PET/CT (Positron Emission Tomography/Computed Tomography); or

(L) Evolving Technology.

(15) Nonsubstantive project includes, but is not limited to, at least one (1) of the following situations:

(A) An expenditure which is required solely to meet federal or state requirements or involves predevelopment costs or the development of a health maintenance organization;

(B) The construction or modification of nonpatient care services, including parking facilities, sprinkler systems, heating or air-conditioning equipment, fire doors, food service equipment, building maintenance, administrative equipment, telephone systems, energy conservation measures, land acquisition, medical office buildings, and other projects or functions of a similar nature; or

(C) Expenditures for construction, equipment, or both, due to an act of God or a normal consequence of maintenance, but not replacement, of health care facilities, beds, or equipment.

(16) Offer, when used in connection with health services, means that the applicant asserts having the capability and the means to provide and operate the specified health services.

(17) Predevelopment costs mean expenditures as defined in section 197.305(13), RSMo, including consulting, legal, architectural, engineering, financial and other activities directly related to the proposed project, but excluding the application fee for submission of the application for the proposed project.

(18) Related organization means an organization that is associated or affiliated with, has control over or is controlled by, or has any direct financial interest in, the organization applying for a project including, without limitation, an underwriter, guarantor, parent organization, joint venturer, partner or general partner.

(19) Service area means:

(A) A fifteen (15)-mile radius for long-term care bed proposals; or

(B) A geographic region appropriate for any other proposed service, documented by the applicant and approved by the Committee.

(20) The most current version of form MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by

5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.400 Letter of Intent Process. This rule delineated the process for submitting a Letter of Intent to begin the Certificate of Need (CON) review process and outlined the projects subject to CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.400 Letter of Intent Process

PURPOSE: This rule delineates the process for submitting a Letter of Intent to begin the Certificate of Need (CON) review process and outlines the projects subject to CON review.

(1) Applicants shall submit a Letter of Intent (LOI) package to begin the Certificate of Need (CON) review process at least thirty (30) days prior to the submission of the CON application and will remain valid in accordance with the following time frames:

(A) For full reviews, expedited equipment replacements, expedited long-term care (LTC) renovation or modernization reviews and expedited LTC facility replacement reviews, a LOI is valid for six (6) months;

(B) For expedited LTC bed expansion reviews in accordance with section 197.318.8, RSMo, a LOI is valid for twenty-four (24) months; and

(C) For non-applicability reviews, a LOI is valid for six (6) months.

(2) Once filed, a LOI may be amended, except for project address, not later than ten (10) days in advance of the CON application filing, or it may be withdrawn at any time without prejudice.

(3) A LTC bed expansion or replacement as defined in these rules includes all of the provisions pursuant to section 197.318.8 through 197.318.10, RSMo, requiring a CON application, but allowing shortened information requirements and review time frames. When a LOI for a LTC bed expansion, except replacement(s), is filed, the Certificate of Need Program (CONP) staff shall immediately request certification for that facility of average licensed bed occupancy and final Class 1 patient care deficiencies for the most recent six (6) consecutive calendar quarters by the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, through a LTC Facility Expansion Certification (Form MO 580-2351) to verify compliance with occupancy and deficiency requirements pursuant to section 197.318.8, RSMo. Occupancy data shall be taken from the DHSL's most recently published Six Quarter Survey of Hospital and Nursing Home (or Residential Care Facility) Licensed Bed Utilization reports. For LTC bed expansions or replacements, the sellers and purchasers shall be defined as the owner(s) and operator(s) of the respective facilities, which includes building, land, and license. On the Purchase Agreement (Form MO 580-2352), both the owner(s) and operator(s) of the purchasing and selling facilities should sign.

(4) The CONP staff, as an agent of the Missouri Health Facilities Review Committee (Committee), will review LOIs according to the following provisions:

(A) Major medical equipment is reviewed as an expenditure on the basis of cost, regardless of owners or operators, or location (mobile or stationary);

(B) The CONP staff shall test the LOI for applicability in accordance with statutory provisions for expenditure minimums, exemptions, and exceptions;

(C) If the test verifies that a statutory exception or exemption is met on a proposed project, or is below all applicable expenditure minimums, the Committee chair may issue a Non-Applicability CON letter indicating the application review process is complete; otherwise, the CONP staff shall add the proposal to a list of Non-Applicability proposals to be considered at the next regularly scheduled Committee meeting;

(D) If an exception or exemption is not met, and if the proposal is above any applicable expenditure minimum, then a CON application will be required for the proposed project;

(E) A Non-Applicability CON letter will be valid subject to the following conditions:

1. Any change in the project scope, including change in type of service, cost, operator, ownership, or site, could void the effectiveness of the letter and require a new review; and

2. Final audited project costs must be provided on a Periodic Progress Report (Form MO 580-1871);

(F) A CON application must be made if:

1. The project involves the development of a new hospital costing one million dollars ($1,000,000) or more, except for a facility licensed under Chapter 197, RSMo, meeting the requirements described in 42 CFR, section 412.23(e);

2. The project involves the acquisition or replacement of major medical equipment in any setting not licensed under Chapter 198, RSMo, costing one million dollars ($1,000,000) or more;

3. The project involves the acquisition or replacement of major medical equipment for a health care facility licensed under Chapter 198, RSMo, costing four hundred thousand dollars ($400,000) or more;

4. The project involves the acquisition of any equipment or beds in a long-term acute care hospital meeting the requirements found in 42 CFR section 412.23(e) at any cost;

5. The project involves a capital expenditure for renovation, modernization or replacement, but not additional beds, by or on behalf of an existing health care facility licensed under Chapter 198, RSMo, costing six hundred thousand dollars ($600,000) or more; or

6. The project involves either additional LTC (licensed or certified residential care facility I or II, intermediate care facility, or skilled nursing facility) beds or LTC bed expansions or replacements licensed under Chapter 198, RSMo, as defined in section (3) above of this rule, costing six hundred thousand dollars ($600,000) or more; or

7. The project involves the expansion of an existing health care facility as described in subdivisions (1) and (2) of section 197.366, RSMo, that either:

A. Costs six hundred thousand dollars ($600,000) or more, or

B. Exceeds ten (10) beds or ten percent (10%) of that facility's existing licensed capacity, whichever is less; and

(G) An exception may exist if the LOI test verifies that the proposed new long-term care beds (excluding LTAC beds) cost less than six hundred thousand dollars ($600,000) or do not exceed ten (10) beds or ten percent (10%) of that facility's existing licensed capacity, whichever is less, and the proposed beds are in the same licensure category as the existing facility's license.

(5) For an LTC bed expansion proposal pursuant to section 197.318.8(1)(e), RSMo, the CONP staff shall request occupancy verification by the DHSL who shall also provide a copy to the applicant.

(6) Nonsubstantive projects are waived from review by the authority of section 197.330.1(8), RSMo, and any projects seeking such a determination shall submit information through the LOI process; those meeting the nonsubstantive definition shall be posted for review on the CON website at least twenty (20) days in advance of the Committee meeting when they are scheduled to be confirmed by the Committee.

(7) The most current version of forms MO 580-2351, MO 580-2352, and MO 580-1871 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.410 Letter of Intent Package. This rule provided the information requirements and the details of how to complete the Letter of Intent package to begin the Certificate of Need (CON) review process.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.410 Letter of Intent Package

PURPOSE: This rule provides the information requirements and the details of how to complete the Letter of Intent package to begin the Certificate of Need (CON) review process.

(1) The Letter of Intent (LOI) (Form MO 580-1860) shall be completed as follows:

(A) Project Information: sufficient information to identify the intended service, such as construction, renovation, new or replacement equipment, and address or plat map identifying a specific site rather than a general area (county designation alone is not sufficient);

(B) Applicant Identification: the full legal name of all owner(s) and operator(s) which compose the applicant(s) who, singly or jointly, propose to develop, offer, lease or operate a new institutional health service within Missouri; provide the corporate entity, not individual names, of the corporate board of directors or the facility administrator;

(C) Type of Review: the applicant shall indicate if the review is for a full review, expedited review or a non-applicability review;

(D) Project Description: information which provides details of the number of beds to be added, deleted, or replaced, square footage of new construction and/or renovation, services affected and equipment

to be acquired. If a replacement project, information which provides details of the facilities or equipment to be replaced, including name, location, distance from the current site, and its final disposition;

(E) Estimated Project Cost: total proposed expenditures necessary to achieve application's objectives—not required for long-term care (LTC) bed expansions pursuant to section 197.318.8(1), RSMo;

(F) Authorized Contact Person Identification: the full name, title, address (including association), telephone number, e-mail, and fax number; and

(G) Applicability: Item 7 of the LOI must be filled out by applicants requesting a non-applicability review to provide the reason and rationale for the exemption or exception being sought.

(2) If a non-applicability review is sought, applicants shall submit the following additional information:

(A) Proposed Expenditures (Form MO 580-2375) including information which details all methods and assumptions used to estimate project costs;

(B) Schematic drawings and evidence of site control, with appropriate documentation; and

(C) In addition to the above information, for exceptions or exemptions, documentation of other provisions in compliance with the Certificate of Need (CON) statute, as described in sections (3) through (6) below of this rule.

(3) If an exemption is sought for a RCF I or II pursuant to section 197.312, RSMo, applicants shall submit documentation that this facility had previously been owned or operated for or, on behalf of St. Louis City.

(4) If an exemption is sought pursuant to section 197.314(1), RSMo, for a sixty (60)-bed stand-alone facility designed and operated exclusively for the care of residents with Alzheimer's disease or dementia and located in a tax increment financing district established prior to 1990 within any county of the first classification with a charter form of government containing a city with a population of over three hundred fifty thousand (350,000) and which district also has within its boundaries a skilled nursing facility (SNF), applicants shall submit documentation that the health care facility would meet all of these provisions.

(5) The LOI must have an original signature for the contact person until the Certificate of Need Program (CONP), when technically ready, shall allow for submission of electronic signatures.

(6) The most current version of forms MO 580-1860 and MO 580-2375 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.420 Application Process. This rule delineated the process for submitting a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.420 Review Process

PURPOSE: This rule delineates the process for submitting a Certificate of Need (CON) application for a CON review.

(1) The Certificate of Need (CON) filing deadlines are as follows:

(A) For full applications, at least seventy-one (71) days prior to each Missouri Health Facilities Review Committee (Committee) meeting;

(B) For expedited equipment replacement applications, expedited long-term care (LTC) facility renovation or modernization applications, and expedited LTC bed expansions and replacements pursuant to section 197.318.8 through 197.318.10, RSMo, the tenth day of each month, or the next business day thereafter if that day is a holiday or weekend;

(C) For non-applicability reviews, the Letter of Intent (LOI) filing may occur at any time.

(2) A CON application filing that does not substantially conform with the LOI, including any change in owner(s), operator(s), scope of services, or location, shall not be considered a CON application and shall be subject to the following provisions:

(A) The Certificate of Need Program (CONP) staff shall return any nonconforming submission; or

(B) The Committee may issue an automatic denial unless the applicant withdraws the attempted application.

(3) All filings must occur at the principal office of the Committee during regular business hours. The CONP staff, as an agent of the Committee, shall provide notification of applications received through publication of the Application Review Schedule (schedule), as follows:

(A) For full applications and expedited applications, the schedule shall include the filing date of the application, a brief description of the proposed service, the time and place for filing comments and requests for a public hearing, and the tentative date of the meeting at which the full application is scheduled for review or tentative decision date for expedited applications. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. A press release about the CON application schedule shall be sent by e-mail to all legislators, affected persons and all newspapers of general circulation in Missouri as supplied by the Office of Public Information, Department of Health and Senior Services; and

2. The schedule shall be published on the CON website.

(B) For non-applicability reviews, the listing of non-applicability letters to be confirmed shall be published on the CON website at least twenty (20) days prior to each scheduled meeting of the Committee where confirmation is to take place.

(4) The CONP staff shall review CON applications relative to the Criteria and Standards in the order filed.

(5) The CONP staff shall notify the applicant in writing regarding the completeness of a full CON application within fifteen (15) calendar days of filing or within five (5) working days for an expedited application.

(6) Verbal information or testimony shall not be considered part of the application.

(7) Subject to statutory time constraints, the CONP staff shall send its written analysis to the Committee as follows:

(A) For full CON applications, the CONP staff shall send the analysis twenty (20) days in advance of the first Committee meeting following the seventieth (70th) day after the CON application is filed. The written analysis of the CONP staff shall be sent to the applicant no less than fifteen (15) days before the meeting.

(B) For expedited applications which meet all statutory and rules requirements and which have no opposition, the CONP staff shall send its written analysis to the Committee and the applicant within two (2) working days following the expiration of the thirty (30)-day public notice waiting period or the date upon which any required additional information is received, whichever is later.

(C) For expedited applications which do not meet all statutory and rules requirements or those which have opposition, they will be considered at the earliest scheduled Committee meeting where the written analysis by the CONP staff can be sent to the Committee and the applicant at least seven (7) days in advance.

(8) See rule 19 CSR 60-50.600 for a description of the CON decision process.

(9) An applicant may withdraw an application without prejudice by written notice at any time prior to the Committee's decision. Later submission of the same application or an amended application shall be handled as a new application with a new fee.

(10) In addition to using the Community Need Criteria and Standards as guidelines, the Committee may also consider other factors to include, but not be limited to, the number of patients requiring treatment, the changing complexity of treatment, unique obstacles to access, competitive financial considerations, or the specialized nature of the service.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.430 Application Package. This rule provided the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.430 Application Package

PURPOSE: This rule provides the information requirements and the application format of how to complete a Certificate of Need (CON) application for a CON review.

(1) A Certificate of Need (CON) application package shall be accompanied by an application fee which shall be a nonrefundable minimum amount of one thousand dollars ($1,000) or one-tenth of one percent (0.1%), which may be rounded up to the nearest dollar, of the total project cost, whichever is greater, made payable to the "Missouri Health Facilities Review Committee."

(2) A written application package consisting of an original and eleven (11) bound copies (comb or three (3)-ring binder) shall be prepared and organized as follows:

(A) The CON Applicant's Completeness Checklists and Table of Contents should be used as follows:

1. Include at the front of the application;
2. Check the appropriate "done" boxes to assure completeness of the application;
3. Number all pages of the application sequentially and indicate the page numbers in the appropriate blanks;
4. Check the appropriate "n/a" box if an item in the Review Criteria is "not applicable" to the proposal; and
5. Restate (preferably in bold type) and answer all items in the Review Criteria.

(B) The application package should use one of the following CON Applicant's Completeness Checklists and Table of Contents appropriate to the proposed project, as follows:

1. New Hospital Application (Form MO 580-2501);
2. New or Additional Long-Term Care (LTC) Beds Application (Form MO 580-2502);
3. New or Additional Long-Term Acute Care (LTAC) Beds Application (use Form MO 580-2502);
4. New or Additional Equipment Application (Form MO 580-2503);
5. Expedited LTC Bed Replacement/Expansion Application (Form MO 580-2504);
6. Expedited LTC Renovation/Modernization Application (Form MO 580-2505); or
7. Expedited Equipment Replacement Application (Form MO 580-2506).

(C) The application should be formatted into dividers using the following outline:

1. Divider I. Application Summary;
2. Divider II. Proposal Description;
3. Divider III. Community Need Criteria and Standards; and
4. Divider IV. Financial Feasibility (only if required for full applications).

(D) Support Information should be included at the end of each divider section to which it pertains, and should be referenced in the divider narrative. For applicants anticipating having multiple applications in a year, master file copies of such things as maps, population data (if applicable), board memberships, IRS Form 990, or audited financial statements may be submitted once, and then referred to in subsequent applications, as long as the information remains current.

(E) The application package should document the need or meet the additional information requirements in 19 CSR 60-50.450(4)–(6) for the proposal by addressing the applicable Community Need Criteria and Standards using the standards in 19 CSR 60-50.440 through 19 CSR 60-50.460 plus providing additional documentation to substantiate why any proposed alternative Criteria and Standards should be used.

(3) An Application Summary shall be composed of the completed forms in the following order:

(A) Applicant Identification and Certification (Form MO 580-1861). Additional specific information about board membership may be requested, if needed;

(B) A completed Representative Registration (Form MO 580-1869) for the contact person and any others as required by section 197.326(1), RSMo; and

(C) A detailed Proposed Project Budget (Form MO 580-1863), with an attachment which details how each line item was determined including all methods and assumptions used.

(4) The Proposal Description shall include documents which:

(A) Provide a complete detailed description and scope of the project, and identify all the institutional services or programs which will be directly affected by this proposal;

(B) Describe the developmental details including:

1. A legible city or county map showing the exact location of the facility or health service, and a copy of the site plan showing the relation of the project to existing structures and boundaries;
2. Preliminary schematics for the project that specify the functional assignment of all space which will fit on an eight and one-half inch by eleven inch (8 1/2" × 11") format (not required for replacement equipment projects). The Certificate of Need Program (CONP) staff may request submission of an electronic version of the schematics, when appropriate. The function for each space, before and after construction or renovation, shall be clearly identified and all space shall be assigned;
3. Evidence of submission of architectural plans to the Division of Health Standards and Licensure, Department of Health and Senior Services, for long-term care projects and other facilities (not required for replacement equipment projects);
4. For long-term care proposals, existing and proposed gross square footage for the entire facility and for each institutional service or program directly affected by the project. If the project involves relocation, identify what will go into vacated space;
5. Documentation of ownership of the project site, or that the site is available through a signed option to purchase or lease; and
6. Proposals which include major and other medical equipment should include an equipment list with prices and documentation in the form of bid quotes, purchase orders, catalog prices, or other sources to substantiate the proposed equipment costs;

(C) Proposals for new hospitals, new or additional long-term care (LTC) beds, or new major medical equipment must define the community to be served:

1. Describe the service area(s) population using year 2005 populations and projections which are consistent with those provided by the Bureau of Health Data Analysis which can be obtained by contacting:

Chief, Bureau of Health Data Analysis
Center for Health Information Management and Evaluation (CHIME)
Department of Health and Senior Services
PO Box 570, Jefferson City, MO 65102
Telephone: (573) 751-6278

There will be a charge for any of the information requested, and seven to fourteen (7–14) days should be allowed for a response from the CHIME. Information requests should be made to CHIME such that the response is received at least two (2) weeks before it is needed for incorporation into the CON application; and

2. Use the maps and population data received from CHIME with the CON Applicant's Population Determination Method to determine the estimated population, as follows:

A. Utilize all of the population for zip codes entirely within the fifteen (15)-mile radius for LTC beds or geographic service area for hospitals and major medical equipment;

B. Reference a state highway map (or a map of greater detail) to verify population centers (see Bureau of Health Data Analysis information) within each zip code overlapped by the fifteen (15)-mile radius or geographic service area;

C. Categorize population centers as either "in" or "out" of the fifteen (15)-mile radius or geographic service area and remove the population data from each affected zip code categorized as "out";

D. Estimate, to the nearest ten percent (10%), the portion of the zip code area that is within the fifteen (15)-mile radius or geographic service area by "eyeballing" the portion of the area in the radius (if less than five percent (5%), exclude the entire zip code);

E. Multiply the remaining zip code population (total population less the population centers) by the percentage determined in (4)(C)2.D. (due to numerous complexities, population centers will not be utilized to adjust overlapped zip code populations in Jackson, St. Louis, and St. Charles counties or St. Louis City; instead, the total population within the zip code will be considered uniform and multiplied by the percentage determined in (4)(C)2.D.);

F. Add back the population center(s) "inside" the radius or region for zip codes overlapped; and

G. The sum of the estimated zip codes, plus those entirely within the radius, will equal the total population within the fifteen (15)-mile radius or geographic service area;

3. Provide other statistics, such as studies, patient origin or discharge data, Hospital Industry Data Institute's information, or consultants' reports, to document the size and validity of any proposed user-defined "geographic service area";

(D) Identify specific community problems or unmet needs which the proposed or expanded service is designed to remedy or meet;

(E) Provide historical utilization for each existing service affected by the proposal for each of the past three (3) years;

(F) Provide utilization projections through at least three (3) years beyond the completion of the project for all proposed and existing services directly affected by the project;

(G) If an alternative methodology is added, specify the method used to make need forecasts and describe in detail whether projected utilizations will vary from past trends; and

(H) Provide the current and proposed number of licensed beds by type for projects which would result in a change in the licensed bed complement of the LTC facility.

(5) Document that consumer needs and preferences have been included in planning this project. Describe how consumers have had an opportunity to provide input into this specific project, and include in this section all petitions, letters of acknowledgement, support or opposition received.

(6) The most current version of forms MO 580-2501, MO 580-2502, MO 580-2503, MO 580-2504, MO 580-2505, MO 580-1861, MO 580-1869 and MO 580-1863 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.450 Criteria and Standards for Long-Term Care. This rule outlined the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.450 Criteria and Standards for Long-Term Care

PURPOSE: This rule outlines the criteria and standards against which a project involving a long-term care facility would be evaluated in a Certificate of Need (CON) review.

(1) For purposes of determining need and evaluating area occupancy, residential care facility (RCF) I and RCF II shall be one separate classification and intermediate care facility (ICF) and skilled nursing facility (SNF) shall be another separate classification. For purposes of defining facilities and determining need, RCF I and RCF II, ICF and SNF, and long-term acute care (LTAC) shall be recognized as three (3) separate classifications, consistent with the definition of health care facility in section 197.366 (1), (2), and (3), RSMo.

(2) The following population-based long-term care bed need methodology for the fifteen (15)-mile radius shall be used to determine the maximum size of the need:

(A) Approval of additional ICF/SNF beds will be based on a service area need determined to be fifty-three (53) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of ICF/SNF beds shown in the Inventory of Hospital and Nursing Home ICF/SNF Beds as provided by the Certificate of Need Program (CONP) which includes licensed beds, Certificate of Need (CON)-approved beds, and non-applicability beds;

(B) Approval of additional RCF beds will be based on a service area need determined to be sixteen (16) beds per one thousand (1,000) population age sixty-five (65) and older minus the current supply of RCF beds shown in the Inventory of Residential Care Facility Beds as provided by the CONP which includes licensed beds and CON-approved beds, and non-applicability beds; and

(C) Approval for LTAC beds, as described in 42 CFR, section 412.23(e), will be based on a service area need determined to be one (1) bed per one thousand (1,000) population minus the current supply of LTAC beds shown in the inventory of LTAC beds as provided by the Certificate of Need Program which includes licensed beds and CON-approved beds.

(3) The minimum annual average utilization for all other long-term care beds within a fifteen (15)-mile radius of the proposed site should have achieved at least eighty percent (80%) for the preceding six (6) consecutive calendar quarters at the time of application filing as reported in the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, Six-Quarter Survey of Hospital and Nursing Home (or Residential Care Facility) Licensed and Available Bed Utilization and certified through a written finding by the DHSL.

(4) Replacement Chapter 198, RSMo, beds qualify shortened information requirements and review time frames if an applicant proposes to:

(A) Relocate RCF beds within a six (6)-mile radius pursuant to section 197.318.8(4), RSMo;

(B) Replace one-half (1/2) of its licensed beds within a thirty (30)-mile radius pursuant to section 197.318.9, RSMo; or

(C) Replace a facility in its entirety within a fifteen (15)-mile radius pursuant to section 197.318.10, RSMo, under the following conditions:

1. The existing facility's beds shall be replaced at only one (1) site;

2. The existing facility and the proposed facility shall have the same owner(s), regardless of corporate structure; and

3. The owner(s) shall stipulate in writing that the existing facility's beds to be replaced will not be used later to provide long-term care services; or if the facility is operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

(5) LTC bed expansions involving a Chapter 198, RSMo, facility qualify for shortened information requirements and review time frames, and applicants shall also submit the following information:

(A) If an effort to purchase has been successful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities, and a copy of the selling facility's reissued license verifying the surrender of the beds sold; or

(B) If an effort to purchase has been unsuccessful pursuant to section 197.318.8(1), RSMo, a Purchase Agreement (Form MO 580-2352) between the selling and purchasing facilities which documents the "effort(s) to purchase" LTC beds.

(6) An exception to the CON application filing fee will be recognized for any proposed facility which is designed and operated exclusively for persons with acquired human immunodeficiency syndrome (AIDS).

(7) Any newly-licensed Chapter 198, RSMo, facility established as a result of the Alzheimer's and dementia demonstration projects pursuant to Chapter 198, RSMo, or aging-in-place pilot projects pursuant to Chapter 198, RSMo, as implemented by the DHSL, may be licensed by the DHSL until the completion of each project. If a demonstration or pilot project receives a successful evaluation from the DHSL and a qualified Missouri school or university, and meets the DHSL standards for licensure, this will ensure continued licensure without a new CON.

(8) For LTC renovation or modernization projects which do not include increasing the number of beds, the applicant should document the following, if applicable:

(A) The proposed project is needed to comply with current facility code requirements of local, state or federal governments;

(B) The proposed project is needed to meet requirements for licensure, certification or accreditation, which if not undertaken, could result in a loss of accreditation or certification;

(C) Operational efficiencies will be attained through reconfiguration of space and functions;

(D) The methodologies used for determining need;

(E) The rationale for the reallocation of space and functions; and

(F) The benefits to the facility because of its age or condition.

(9) The most current version of Form MO 580-2352 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Emergency rule filed Aug. 29, 1997, effective Sept. 8, 1997, expired March 6, 1998. Original rule filed Aug. 29, 1997, effective March 30, 1998. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RESCISSION

19 CSR 60-50.700 Post-Decision Activity. This rule described the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

PURPOSE: This rule is rescinded because the Missouri CON Rulebook has been rewritten to implement the sunset provisions of sections 197.305, 197.317 and 197.318, RSMo.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rescission with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

PROPOSED RULE

19 CSR 60-50.700 Post-Decision Activity

PURPOSE: This rule describes the procedure for filing Periodic Progress Reports after approval of Certificate of Need (CON) applications, CONs subject to forfeiture, and the procedure for requesting a cost overrun.

(1) Applicants who have been granted a Certificate of Need (CON) or a Non-Applicability CON letter shall file reports with the Missouri Health Facilities Review Committee (Committee), using Periodic Progress Report (Form MO 580-1871). A report shall be filed by the end of each six (6)-month period after CON approval, or issuance of a Non-Applicability CON letter, until project construction and/or expenditures are complete. All Periodic Progress Reports must contain a complete and accurate accounting of all expenditures for the report period.

(2) Applicants who have been granted a CON and fail to incur a capital expenditure within six (6) months may request an extension of six (6) months by submitting a letter to the Committee outlining the reasons for the failure, with a listing of the actions to be taken within the requested extension period to insure compliance. The Certificate of Need Program (CONP) staff on behalf of the Committee will analyze the request and grant an extension, if appropriate. Applicants who request additional extensions must provide additional financial information or other information, if requested by the CONP staff.

(3) For those long-term care proposals receiving a CON in 2003 for which no construction can begin prior to January 1, 2004, such proposals shall not be subject to forfeiture until July 1, 2004, at which time reporting requirements shall commence. Applicants may request an extension of six (6) months for such proposals.

(4) A Non-Applicability CON letter is valid for six (6) months from the date of issuance. Failure to incur a capital expenditure or purchase the proposed equipment within that time frame shall result in the Non-Applicability CON letter becoming null and void. The applicant may request one (1) six (6)-month extension unless otherwise constrained by statutory changes.

(5) A CON shall be subject to forfeiture for failure to:

(A) Incur a project-specific capital expenditure within twelve (12) months after the date the CON was issued through initiation of project above-ground construction or lease/purchase of the proposed equipment since a capital expenditure, according to generally accepted accounting principles, must be applied to a capital asset; or

(B) File the required Periodic Progress Report.

(6) If the CONP staff finds that a CON may be subject to forfeiture—

(A) Not less than thirty (30) calendar days prior to a Committee meeting, the CONP shall notify the applicant in writing of the possible forfeiture, the reasons for it, and its placement on the Committee agenda for action; and

(B) After receipt of the notice of possible forfeiture, the applicant may submit information to the Committee within ten (10) calendar days to show compliance with this rule or other good cause as to why the CON shall not be forfeited.

(7) If the Committee forfeits a CON or a Non-Applicability CON letter becomes null and void, CONP staff shall notify all affected state agencies of this action.

(8) Cost overrun review procedures implement the CON statute section 197.315.7, RSMo. Immediately upon discovery that a project's actual costs would exceed approved project costs by more than ten percent (10%), an applicant shall apply for approval of the cost variance. A nonrefundable fee in the amount of one-tenth of one percent (0.1%) of the additional project cost above the approved amount made payable to "Missouri Health Facilities Review Committee" shall be required. The original and eleven (11) copies of the information requirements for a cost overrun review are required as follows:

(A) Amount and justification for cost overrun shall document—

1. Why and how the approved project costs would be exceeded, including a detailed listing of the areas involved;

2. Any changes that have occurred in the scope of the project as originally approved; and

3. The alternatives to incurring this overrun that were considered and why this particular approach was selected.

(B) Provide a Proposed Project Budget (Form MO 580-1863).

(9) At any time during the process from Letter of Intent to project completion, the applicant is responsible for notifying the Committee of any change in the designated contact person. If a change is necessary, the applicant must file a Contact Person Correction (Form MO 580-1870).

(10) The most current version of forms MO 580-1871, MO 580-1863, and MO 580-1870 may be obtained by mailing a written request to the CONP, 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/con.

AUTHORITY: section 197.320, RSMo 2000. Original rule filed June 2, 1994, effective Nov. 30, 1994. For intervening history, please consult the ***Code of State Regulations****. Emergency rescission and rule filed Dec. 16, 2002, effective Jan. 1, 2003, expires June 29, 2003. Rescinded and readopted: Filed Dec. 16, 2002.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support or in opposition to this proposed rule with Thomas R. Piper, Director, Certificate of Need Program, 915G Leslie Blvd., Jefferson City, MO 65101. To be considered, comments must be received by 5:00 p.m. on February 17, 2003. A public hearing has been scheduled for February 17, 2003, at 10:00 a.m. at the Certificate of Need Program Office located at 915G Leslie Blvd., Jefferson City, Missouri.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE
Division 110—Office of the Director
Chapter 1—Missouri Qualified Fuel Ethanol Producer Incentive Program

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 142.028, RSMo Supp. 2002, the director amends a rule as follows:

2 CSR 110-1.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2002 (27 MoReg 1443–1444). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) comment on the proposed amendment.

COMMENT: A member of an ethanol plant was concerned that the definition of "actively engaged in agricultural production for commercial purposes" contained in section (2)(D) and (4)(B)5. required an agricultural producer be able to meet the delivery obligation of the entire ethanol production facility.

RESPONSE AND EXPLANATION OF CHANGE: The intent of the rule is that agricultural producers are able to meet their individual delivery obligations, not the delivery obligations of the entire ethanol facility. Therefore, the department agrees with the comment and has revised subsection (2)(D) and paragraph (4)(B)5. accordingly.

2 CSR 110-1.010 Description of General Organization; Definitions; Requirements of Eligibility, Licensing, Bonding, and Application for Grants; Procedures for Grant Disbursements; Record Keeping Requirements, and Verification Procedures for the Missouri Qualified Fuel Ethanol Producer Incentive Program

(2) Definitions.

(D) Actively engaged in agricultural production for commercial purposes—Producing cereal grain or cereal grain by-products in quantities sufficient to meet their individual delivery obligations to the ethanol production facility;

(4) Procedures for Obtaining a Missouri Qualified Fuel Ethanol Producer License.

(B) The license application form must include:

1. The fuel ethanol producer's Bureau of Alcohol, Tobacco and Firearms Permit number;
2. The fuel ethanol producer's federal employer identification number or Social Security number;
3. If incorporated, a copy of the Certificate of Good Standing issued by the Missouri Secretary of State;
4. Complete name and address of the owner(s), or the names and addresses of the partners if the MQFEP is a partnership or the names and addresses of the principal officers if the MQFEP is a corporation or limited liability company;
5. Certification by the MQFEP's board of directors that at least fifty-one percent (51%) of the owners produce cereal grain or cereal grain by-products in quantities sufficient to meet their individual delivery obligations to the ethanol production facility;
6. Diagram of the premises (location of the still, etc.);
7. Description of the stills, including their capacity;
8. The amount and source of the feedstocks to be used annually by the facility;
9. The maximum number of gallons of ethanol to be produced annually by the facility; and
10. The amount and source of funds invested in the facility.

Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 20—Wildlife Code: Definitions

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-20.805 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2002 (27 MoReg 1937). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions
Chapter 2—State-Chartered Credit Unions

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Credit Unions under section 370.100, RSMo 2000, the director adopts a rule as follows:

4 CSR 100-2.005 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1768). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Division of Credit Unions received one comment on the proposed rule.

COMMENT: The Missouri Credit Union System submitted a comment that offered suggestions for changes in certain parts of the rule. The suggestions covered section (3) and subsections (D), (F), (H), (I), (K) and (L) of section (3). Also, they felt it appropriate to include an objective, widely accepted rating mechanism in the regulation.
RESPONSE AND EXPLANATION OF CHANGE: The Division of Credit Unions appreciates the response from the Missouri Credit Union System. Subsections (F), (H), (K), and (L) are not being changed. Section (3) and subsections (D) and (I) have been changed to reflect new wording. The suggestion to include a rating system has been considered. However, the qualifying factors included in the rule encompass the factors that go into the individual ratings for each credit union. Thus, there will not be a rating system qualification included in the rule.

4 CSR 100-2.005 Frequency of Credit Union Examinations

(3) The factors the director may consider, when determining whether or not a credit union may qualify for examinations less frequently than annually, may include:

(D) The credit union has not experienced major changes in its balance sheet structure within the preceding twelve (12) months;

(I) The credit union has maintained accurate and current books and records;

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 23—Motor Vehicle

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.010 and 301.190, RSMo 2000 and 307.205, RSMo Supp. 2002, the director adopts a rule as follows:

12 CSR 10-23.454 Electric Personal Assistive Mobility Device (EPAMD) **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1785). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Drivers License Bureau Rules

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 302.530, RSMo 2000, and 302.525 and 302.535, RSMo Supp. 2002, the director amends a rule as follows:

12 CSR 10-24.020 Trial *De Novo* Procedures and Parties **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1785–1786). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.553, RSMo 2000 and 301.560, RSMo Supp. 2002, the director amends a rule as follows:

12 CSR 10-26.010 Bona Fide Established Place of Business **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1786). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.553 and 301.559, RSMo 2000 and 301.560, RSMo Supp. 2002, the director amends a rule as follows:

12 CSR 10-26.020 License Requirements for Auctions, Dealers and Manufacturers **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1786–1787). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 26—Dealer Licensure

ORDER OF RULEMAKING

By the authority vested in the director of revenue under sections 301.553 and 301.566, RSMo 2000 and 301.550, RSMo Supp. 2002, the director amends a rule as follows:

12 CSR 10-26.090 Regulation of Off-Premises Shows and Tent Sales **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1787). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153, 208.159 and 208.201, RSMo 2000, the director amends a rule as follows:

13 CSR 70-3.020 Title XIX Provider Enrollment **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2002 (27 MoReg 1472–1473). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: The Division of Medical Services received four (4) written comments on the proposed amendment.

COMMENT: The Executive Director of the Missouri Association of Osteopathic Physicians & Surgeons was concerned that the term provider was not defined.
RESPONSE: The term provider is defined at 13 CSR 70-3.020 (1)(I) Provider—Any person having an effective, valid and current written provider agreement with the Medicaid agency for the purpose of providing services to eligible recipients and obtaining reimbursement excluding, for the purposes of this rule only all persons receiving reimbursement in their capacity as owners or operators of a licensed nursing home. According to the Missouri Secretary of State Rulemaking Manual only those section(s) of a rule that are being amended are published in the proposed amendment. There was no change to the definition of the term provider. No changes have been made to the rule as a result of this comment.

COMMENT: Substantially similar written comments were received on behalf of the Missouri Health Care Association, Missouri Assisted Living Association, and the Missouri Dental Association. Since the proposed amendment would automatically assign the Medicaid provider number of the prior provider to the new provider, the associations are concerned that the proposed amendment would discourage the purchase of those businesses that participate in the Medicaid program for fear there may be some lurking claim of liability by the Division of Medical Services. The net effect would be to penalize an innocent purchaser and allow the provider creating the problems to avoid any sanction. The Division of Medical Services was asked to reevaluate the proposed amendment because, in the opinion of the associations, it constituted an overzealous attempt to collect from successors remote in time overpayments or penalties which should have been collected from the entity guilty of the conduct which resulted in the penalty. The associations were also concerned that the regulation did not recognize any statute of limitation as binding on the division.
RESPONSE: The Division of Medical Services does not believe it is possible to be overzealous in the protection of monies that are due the Medicaid program and ultimately the Missouri taxpayer. Liabilities owed the Medicaid program are put in writing, whether they be overpayments or sanctions. The buyer of a property can research those liabilities with the seller and negotiate a purchase price to cover the obligation to the state. The Division of Medical Services believes this method is least intrusive in private property transfer. The regulation does not recognize any statute of limitation as binding on the division because the Centers for Medicare and Medicaid Services does not recognize any statute of limitation as binding on the Medicaid program. No changes have been made to the rule as a result of this comment.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 40—Optical Program

ORDER OF RULEMAKING

By the authority vested in the director of the Division of Medical Services under sections 208.152, 208.153 and 208.201, RSMo 2000, the director amends a rule as follows:

13 CSR 70-40.010 Optical Care Benefits and Limitations—Medicaid Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1326–1327). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations.*

SUMMARY OF COMMENTS: The Division of Medical Services received three (3) written comments on the proposed amendment.

COMMENTS: The comments from the Missouri Association For Social Welfare, Legal Services of Eastern Missouri, Inc, and David W. Tushaus, Attorney at Law, were similar in nature. Each commenter expressed their vigorous opposition to the proposed changes in the Medicaid optical program for adults. They were gravely concerned about the consequences of these cuts in services for Missouri's most vulnerable citizens. The commenters wrote the need for optical care is not limited to those who have the resources to pay for treatment. Inability of a parent to obtain needed glasses can limit opportunities for work or participation in education and training, and can interfere with all of the other associated tasks that depend on the ability to see. How Missouri treats and respects its poorest, most vulnerable citizens in policy decisions is surely a test of humanity and honor for all of us who have been lucky or nurtured enough to not be poor. The proposed amendment violates state and federal requirements governing the coverage of adult optical services. The division's

proposed amendment was described as a wrongheaded and illegal attempt to balance its budget. The Division of Medical Services was urged not to implement the amendment and work to find alternative decisions in this budget matter and pursue other means to accomplish a goal of providing much needed optical care to the poor.
RESPONSE: The Division of Medical Services weighed a number of budget reduction measures before proposing the limited reduction in optical services to adults. According to an analysis of data from the *1997 Medical Expenditure Panel Survey* done by the Center on an Aging Society at Georgetown University, seventy-three percent (73%) of the total cost of glasses and contact lenses for people with visual impairments was paid out-of-pocket. The Division of Medical Services has not received complaints from recipients citing lack of eyeglasses as a barrier to finding or keeping a job. The amendment to Missouri Medicaid State Plan to limit eyeglasses for adults twenty-one (21) years and older to one pair following cataract surgery was approved by the Department of Health and Human Services, Centers for Medicare and Medicaid Services. This approval is consistent with other state Medicaid programs that limit optical coverage. No changes have been made to the rule as a result of these comments.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 51—Broker-Dealers, Agents, Investment Advisers, and Investment Adviser Representatives

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner amends a rule as follows:

15 CSR 30-51.160 Effectiveness and Post-Effective Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1788). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.010 General Provisions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1788). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.010 General Provisions **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1788–1789). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one comment on the proposed rule.

COMMENT: Brian C. Underwood, Senior Vice President with A. G. Edwards & Sons, Inc. requested that section (1) be rewritten to exclude registration by notification and to include a new section for notice filings of federal covered securities.
RESPONSE: No changes will presently be made. Upon the anticipated approval of the 2002 Uniform Securities Act by the Missouri legislature, the Division will revise this regulation and others to exclude registration by notification as pursuant to the 2002 Uniform Securities Act. As to the notice filing for federal covered securities, a new rule will soon be proposed in Chapter 54 to address this issue.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.015 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1789). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received two (2) comments on the proposed rule.

COMMENT: Brian C. Underwood, Senior Vice President with A. G. Edwards & Sons, Inc. requested that the title should be renamed to add the words "Notice-filing." Further, the rule should be changed to comply with the notice-filing requirements pursuant to the National Securities Markets Improvement Act ("NSMIA").
RESPONSE: No changes will be made. The Division will soon propose a new rule under Chapter 54 to address the notice-filings requirements for federal covered securities under NSMIA.

COMMENT: Tom Kluck with the Division noted that under subsections (4)(B) and (C) the word registrant should be removed since this part of the regulations refers to applicants. Further, these requirements for applicants are addressed in 15 CSR 30-52.300.

RESPONSE AND EXPLANATION OF CHANGE: Subsections (4)(B) and (C) will be changed to remove the word registrant.

15 CSR 30-52.015 Applications for Registration

(4) All applicants for registration shall immediately notify the Securities Division in writing of the following events:

(B) Any stop order, denial, order to show cause, suspension order, revocation order, consent order, cease and desist order, injunction, restraining order, or similar order entered or issued by any state, regulatory authority or court, regarding the applicant, issuer, their subsidiaries or affiliates; and

(C) Any request by the applicant or issuer to any other state or regulatory authority for permission to withdraw any application to register the securities covered by the registration statement.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.020 Prospectus **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1789). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1790). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one (1) comment on the proposed rule.

COMMENT: Tom Kluck with the Division noted the following: 1) in subparagraph (2)(B)1.A., the reference to 15 CSR 30-52.041 should be changed to 15 CSR 30-52.025; 2) in subparagraph (2)(B)1.B., the reference to 15 CSR 30-52.041 should be changed to 15 CSR 30-52.025; and 3) in paragraph (2)(B)2., the reference to 15 CSR 30-52.201 should be changed to 15 CSR 30-52.275.
RESPONSE AND EXPLANATION OF CHANGE: The changes to the cites in subparagraphs (2)(B)1.A. and B. and paragraph (2)(B)2. will be made.

15 CSR 30-52.020 Prospectus

(2) Form and Content. The prospectus shall be prepared using the following forms and shall contain the information specified in the forms, together with any additional information the Securities Division may require—

(B) Registration by Qualification.

1. Other than small company offering registrations, the prospectus for a securities registration by qualification under section 409.304, RSMo shall be prepared using the following forms:

A. Part II of form 1-A of regulation A of the Securities Act of 1933 as in effect in March 1999 (see 15 CSR 30-52.025 for financial statement requirements); or

B. Parts I and II of form SB-2 of the Securities Act of 1933, as in effect in June 2000 (see 15 CSR 30-52.025 for financial statement requirements).

2. For small company offering registrations pursuant to 15 CSR 30-52.275, the prospectus to be used shall be form U-7, as adopted and revised by North American Securities Administrators Association, Inc. (NASAA) in September 1999.

3. Any other applicable form may be used to prepare a prospectus under the Securities Act of 1933, if approved by the Securities Division.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.025 Financial Statements **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1790–1791). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one comment on the proposed rule.

COMMENT: Brian C. Underwood, Senior Vice President with A. G. Edwards & Sons, Inc. requested that section (3) be revised to delete the words "notification" to limit the financial statement requirements to securities that are registered by qualification.
RESPONSE: No changes will presently be made. Upon the anticipated approval of the 2002 Uniform Securities Act by the Missouri legislature, the Division will revise this regulation to exclude the reference to registration by notification as pursuant to the 2002 Uniform Securities Act.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.030 Standards **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1791). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.030 NASAA Statements of Policy **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1791–1792). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.040 Selling Expenses and Selling Security Holders **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1792). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.050 Offering Price **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1792). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.060 Options and Warrants **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1792). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.070 Promotional Shares **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1792–1793). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.080 Promoters' Investment **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1793). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes

effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.100 Impoundment **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1793). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.100 Impoundment of Proceeds **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1793–1794). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.110 Voting Rights **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1794). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.120 Preferred Stock and Debt Securities **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1794). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.120 Debt Securities **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1794–1795). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.130 Loans and Other Material-Affiliated Transactions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1795). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.140 Periodic Payment Plans **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1795). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.150 Real Estate Investment Trusts or Other Unincorporated Real Estate Trusts **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1795–1796). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.160 Redeemable Securities Issued by Open-End Management Companies **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1796). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.180 Limited Partnerships **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1796). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.190 Foreign Real Estate Securities **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1796–1797). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.200 Contingent Civil Liability **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1797). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.200 Offer of Refund Prior to Registration **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1797). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.210 Securities Issued by Closed-End Investment Companies **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1797). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.230 Sample Form of Security Escrow Agreement **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1797–1798). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.250 Impoundment of Proceeds **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1798). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.260 Suggested Form of Offer of Refund (Rescission) **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1798). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.260 Suggested Form of Offer of Refund (Rescission) **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1798–1799). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.271 Missouri Issuer Registration **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1799). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.272 Suggested Form for Escrow Agreement for Missouri Issuer Registration **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1799). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.273 Suggested Form of Refund for Missouri Issuer Registration **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1799). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.275 Small Company Registrations **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1800). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.275 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1800). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one comment on the proposed rule.

COMMENT: Tom Kluck with the Division requested that the last sentence in section (3) be changed to include "as determined under the NASAA Statement of Policy Regarding SCOR." This change will clarify when financial statements only need to be reviewed with an application.
RESPONSE AND EXPLANATION OF CHANGE: Section (3) will be changed to include the statement.

15 CSR 30-52.275 Small Company Offering Registrations (formerly Missouri Issuer Registration)

(3) Financial Statements. The financial statements for SCOR offerings over one (1) million dollars shall comply with 15 CSR 30-52.025. The financial statements for SCOR offerings up to one (1) million dollars shall also comply with 15 CSR 30-52.025, but only need to be reviewed as determined under the NASAA Statement of Policy Regarding SCOR.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.280 Withdrawal or Termination **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1800–1801). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.280 Withdrawal of a Registration Statement **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1801). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.290 Effectiveness **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1801). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.300 Amendments **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1801). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.300 Post-Effective Amendments and Notices to a Registration Statement **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1801–1802). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.310 Completion **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1802). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.310 Report of Completion of a Registration Statement **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27

MoReg 1802–1803). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.320 Reports **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1803). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.320 Annual Report for a Renewal of a Registration Statement **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1803). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one comment on the proposed rule.

COMMENT: Brian C. Underwood, Senior Vice President with A. G. Edwards & Sons, Inc. requested that section (1) be changed to include ". . . to renew the registration statement for one year."
RESPONSE: No changes will be made. This rule is based on the current language under section 409.305, RSMo 2000. The focus of this rule is that an annual report needs to be filed with the division and that the division may seek a revocation if such report is not filed.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.330 Records to be Preserved by Issuers in Issuer Distributions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1803). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner adopts a rule as follows:

15 CSR 30-52.330 Records to be Preserved by Issuers **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1803–1804). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner amends a rule as follows:

15 CSR 30-52.340 Mortgage Revenue Bonds **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1804). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 52—Registration of Securities

ORDER OF RULEMAKING

By the authority vested in the commissioner of securities under sections 409.413 and 409.836, RSMo 2000, the commissioner rescinds a rule as follows:

15 CSR 30-52.350 Seasoned Issuer Registration by Filing **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1804). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commissioner of securities received one comment on the proposed rescission.

COMMENT: Brian C. Underwood, Senior Vice President with A. G. Edwards & Sons, Inc. noted that they support the proposed rescission of this rule for there are generally registration exemptions available for these types of securities.
RESPONSE: We agree and no changes will be made.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 20—Division of Environmental Health and Communicable Disease Prevention
Chapter 28—Immunization

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Health and Senior Services under sections 167.181, RSMo Supp. 2001, and 192.006 and 192.020, RSMo 2000, the director amends a rule as follows:

19 CSR 20-28.010 Immunization Requirements for School Children **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 2002 (27 MoReg 1874–1877). No changes have been made in the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received during the comment period.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 2—Reinsurance and Assumptions

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 200-2.700 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1329–1330). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received five (5) comments on the proposed amendment.

COMMENT: The amendment should include an exemption for reinsurance secured by a proper letter of credit, as well as the proposed exemption for reinsurance secured by a proper trust.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has changed the amendment accordingly.

COMMENT: The amendment should include an exemption for reinsurance ceded to alien insurers who have entered the United States through a state that has been accredited by the National Association of Insurance Commissioners (NAIC) according to its financial standards accreditation review.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has changed the amendment accordingly.

COMMENT: The amendment should include an exemption for reinsurance ceded to an insurer domiciled in a state that has not been accredited by the NAIC, provided that such state meets substantially similar financial regulation standards.
RESPONSE AND EXPLANATION OF CHANGE: The director agrees with this comment and has changed the amendment accordingly.

COMMENT: The rule requires reporting from both the assuming insurer and all further retrocessionaires. Such a reporting requirement is unduly burdensome.
RESPONSE AND EXPLANATION OF CHANGE: The director partially agrees with this comment. The intent of the proposed amendment regarding reporting requirements is to require the ceding insurer to obtain reports, at its option, either from the assuming insurer as to the aggregate balance ceded and carried as a gross liability by the assuming insurer or from the assuming insurer and all retrocessionaires as to the net liability carried by each. Because this intent may not be clear from the proposed amendment, the amendment has been changed to clarify the reporting options.

COMMENT: The rule should be rescinded. It is archaic and no longer serves a useful purpose given the changes in accounting standards for reinsurance.
RESPONSE: The director disagrees with this comment. For reinsurance ceded to an insurer not meeting one of the exceptions (as now adopted per this amendment), a significant possibility remains that, in the absence of this rule, the reinsurer, with the acquiescence of its regulator, may disagree with the amount of credit claimed by the ceding insurer and withhold the funds necessary to discharge the credit claimed by the ceding insurer. No changes will be made to this proposed amendment as a result of this comment.

20 CSR 200-2.700 Reinsurance Mirror Image Rule

(2) Mirror Image, Proof.

(B) In order to receive any credit for reinsurance ceded, the ceding insurer must be able to show to the satisfaction of the director of the Department of Insurance, the liability amount established by the assuming insurer with respect to this reinsurance. This showing may be made by any proof deemed reasonable by the director, but this proof must, at a minimum, consist of—at the ceding insurer's option—either a report obtained by the ceding insurer from the assuming insurer as to the gross unearned premium reserve or gross reserve liability held by it or a report obtained by the ceding insurer from the assuming insurer and from each retrocessionaire with respect to the net unearned premium reserve or net reserve liability held by each of them. Each such report shall be:

1. In writing, signed by an officer of the assuming insurer or the retrocessionaire providing it and obtained by the ceding insurer prior to the filing date of the ceding insurer's annual and quarterly statement; and

2. Maintained by the ceding insurer for three (3) years or until the conclusion of the next regular examination conducted by this state's insurance department, whichever is later. If the proof provided fails to meet the standards of subsection (2)(A) of this rule, the ceding insurer will be required to amend its financial statements by making adjustments to its credits for reinsurance as provided in subsections (2)(A) and (C) of this rule and subsections (3)(A) and (D).

(3) A ceding insurer shall not be required to comply with section (2), if and only if the ceding insurer can meet one (1) of the following exceptions:

(B) The assuming insurer is organized under or entered through the laws of and regulated by a state or territory which is either accredited by the National Association of Insurance Commissioners (NAIC) under the NAIC's financial accreditation standards review program or certified in writing by the director as meeting standards substantially similar to the NAIC's financial accreditation standards. This exception applies to subsections (2)(A)–(C); or

(E) The assuming insurer provides security to the ceding insurer in an amount not less than the amount of the credit taken by the ceding insurer, provided that:

1. The security and the holder thereof meet the standards of subsections 2 and 3 of section 375.246, RSMo;

2. The qualified United States financial institution that either issues the letter of credit or serves as trustee of the cash or securities held in trust, is not an "affiliate" (as that term is defined in section 382.010(1), RSMo) of the assuming insurer or of the ceding insurer;

3. If the amount of such security is less than the credit taken by the ceding insurer, then this credit taken will be disallowed to the extent it exceeds the amount of the security; and

4. The exception created by this subsection applies to subsections (A)–(C) of section (2).

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 6—Surplus Lines

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 200-6.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1330–1333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, Appendix 1, referred to in subsection (1)(A) of this proposed amendment, will be changed to delete the term "producer's" in the certification section of Appendix 1 for clarification purposes.

20 CSR 200-6.100 Surplus Lines Insurance Forms

(1) Forms.

(A) Appendix 1 of this rule, included herein, is the form prescribed by the director for the confidential written report required by section 384.031, RSMo.

APPENDIX 1

MISSOURI DEPARTMENT OF INSURANCE SURPLUS LINES FILING

STATE OF MISSOURI—DEPARTMENT OF INSURANCE
PO BOX 690, JEFFERSON CITY, MO 65102

(SUBMIT IN DUPLICATE)

RISK #_____

_____% _____
SURPLUS LINE INSURER AND % OF PARTICIPATION — SURPLUS LINES LICENSEE

_____% _____
SURPLUS LINE INSURER AND % OF PARTICIPATION — PRODUCER

1. NAME AND ADDRESS OF INSURED: _____
_____
_____

2. COMPLETE DESCRIPTION OF RISK AND ITS LOCATION: _____
_____

3. COMPLETE DESCRIPTION OF COVERAGE (no abbreviation): _____
_____

4. SPECIFIC REASON FOR SURPLUS LINES PLACEMENT: _____
_____

5. IF MULTI-STATE RISK, ALLOCATION BASIS MUST BE ATTACHED.

6. POLICY NUMBER _____ DATE EFFECTIVE_____

DATE TERMINATES_____ PREMIUM EFFECTIVE _____
(If multi-state coverage, attach tax allocation basis)

7. IF NOT A DIRECT PLACEMENT WITH SURPLUS LINES INSURER(S), NAME AND ADDRESS OF AMERICAN BROKERAGE FIRM OF LLOYD'S CORRESPONDENT:

_____
NAME ADDRESS

****

THIS PORTION TO BE USED FOR AMENDED FILINGS ONLY

(Fill in above: RISK #, SURPLUS LINES LICENSEE'S NAME and NAME AND ADDRESS OF INSURED)

THE FOLLOWING INFORMATION IS HEREBY MADE A PART OF THE ABOVE NUMBERED ORIGINAL FILING

ADDITIONAL PREMIUM _____ DATE EFFECTIVE _____

RETURN PREMIUM _____ DATE EFFECTIVE _____

ADDITIONAL INFORMATION NOT SUBMITTED ON ORIGINAL FILING: _____
_____

****

I DO HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE, THAT THE ABOVE IS A TRUE AND ACCURATE RECORD OF THE SURPLUS LINES INSURANCE PROCURED PURSUANT TO CHAPTER 384, RSMO _____

_____ _____
DIRECTOR OF INSURANCE SURPLUS LINES LICENSEE'S SIGNATURE

FILED:_____

THIS FORM IS DUE WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF COVERAGE.

Title 20—DEPARTMENT OF INSURANCE
Division 200—Financial Examination
Chapter 8—Risk Retention

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 200-8.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1334–1341). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, subsection (3)(H) of this proposed amendment will be changed to delete the term "general" from paragraphs 1. and 2. for clarification purposes. Exhibit A, referred to in subsection (3)(L), and Exhibit B, referred to in subsection (4)(E), will be deleted from the text of the rule. Instead, these exhibits will be referred to in new language directing the reader to the department's website.

20 CSR 200-8.100 Federal Liability Risk Retention Act

(3) Risk Retention Group. Every risk retention group chartered in states other than this state, seeking to do business as a risk retention group in this state, shall observe and abide by the laws of this state as follows. Each risk retention group shall register, before offering insurance in this state, with the director by submitting for approval to the director the information concerning the risk retention group as is prescribed in this rule.

(H) Licensing.

1. A risk retention group shall solicit members in Missouri only through insurance producers licensed by the director for casualty.

2. An insurance producer licensed by the director for casualty, on behalf of a client seeking insurance, may place insurance with any duly registered purchasing group or risk retention group in the same manner as placing insurance with an authorized insurance company.

(L) Application for Registration.

1. A risk retention group currently registered with the director shall complete and file with the director an Application for Registration, which can be accessed at the department's website at www.insurance.state.mo.us. The application must be filed no later than September 6, 1991. The risk retention group should notify the director of any change in the information in the application within thirty (30) days of any change. Failure to file or to update changes in the application will result in a forfeiture of the risk retention group's registration status with the director.

2. All new applicants for registration must complete and file with the director the Application for Registration. New applicants must submit a one hundred dollar ($100) registration fee with the application.

3. All currently registered risk retention groups must pay an annual renewal fee of one hundred dollars ($100) beginning on July 1, 1991. Failure to pay the renewal fee will result in a forfeiture of registration.

4. All new applicants shall not be required to pay the annual fee as described in subsection (4)(E) until the year following the year the applicant initially registered with the director.

(4) Purchasing Group. Every purchasing group seeking to do business in this state shall register with the director by submitting for approval to the director the information concerning the purchasing group as is prescribed in this rule.

(E) Application for Registration.

1. A purchasing group currently registered with the director shall complete and file with the director an Application for Registration, which can be accessed at the department's website at www.insurance.state.mo.us. The application must be filed by no later than September 6, 1991. The purchasing group should notify the director of any change in the information in the application within thirty (30) days of any change. Failure to file or to update changes in the application will result in a forfeiture of the purchasing group's registration status with the director.

2. All new applicants for registration must complete and file with the director the Application for Registration. New applicants must submit a one hundred dollar ($100) registration fee with the application.

3. All currently registered purchasing groups must pay an annual renewal fee of one hundred dollars ($100) beginning on July 1, 1991. Failure to pay the renewal fee will result in a forfeiture of registration.

4. All new applicants shall not be required to pay the annual fee as described in subsection (4)(E) until the year following the year the applicant initially registered with the director.

Title 20—DEPARTMENT OF INSURANCE
Division 300—Market Conduct Examinations
Chapter 2—Record Retention for Market Conduct Examinations

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 300-2.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1341–1343). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received thirteen (13) comments on the proposed amendment. These comments addressed four (4) issues. Therefore, the department has summarized the comments and prepared a general response for each of the four (4) issues.

COMMENT #1: The definition of "third party vendor" in the proposed amendment is too broad and vague.

RESPONSE #1 AND EXPLANATION OF CHANGE: This proposed amendment is not too broad or vague, in that it is intended to focus only upon a company outsourcing the essential functions (i.e., a function that falls under one of the seven (7) core areas as outlined in the proposed amendment) of insurance to a third party vendor or service provider. This vendor or provider, in essence, is offering a service to the insurer that, absent the third party vendor or provider, the insurer would perform itself.

The definition of "third party vendor" contained in subsection (1)(I) of this proposed amendment will be changed to clarify that definition. The types of duties or functions a business entity, which is defined by a new subsection (1)(B), would need to perform that would make that entity subject to this regulation have been changed so that they will now be listed. Also, an exemption from the requirements of this proposed amendment will be changed to include an

entity already licensed by the department. The proposed amendment will be changed to add a definition of "customary core functions" to section (1) in order to provide additional guidance to insurers.

COMMENT #2: The proposed amendment underestimates the cost of complying with the proposed amendment.
RESPONSE #2: The proposed amendment does not underestimate the cost of compliance with the proposed amendment. The private entity cost estimate was set at $500 or less because it was the department's presumption that most, if not all, insurers already perform some sort of audit or review prior to entering into or renewing a contract with a third party vendor or service provider, if for no other reason than to show a cost savings to management and thus the need to continue the relationship with the third party. Therefore, the department is not going to revise the private entity cost estimate. The department has, however, removed the formal audit requirement in subsection (2)(D) and replaced it with a requirement that an insurer monitor and satisfy to itself that it is content that the vendor or provider is conducting business in an appropriate manner, something the department presumes insurers are already doing.

COMMENT #3: The department has no authority to make insurers comply with the requirements set forth in the proposed amendment.
RESPONSE #3 AND EXPLANATION OF CHANGE: The department possesses adequate authority to impose the requirements set forth in the proposed amendment. This determination is based upon statutory authority for the proposed amendment and is consistent with current case law.

By submitting the following changes to the proposed amendment, the department intends to clarify the relevant statutes by informing both the insurer and the third party vendors and service providers that information used in the non-delegable, or core duties, of the insurer is subject to the required records regulation. The department also believes that the changes made by the department to the proposed amendment will help in future document production disputes, in that the proposed amendment will be changed to allow the department to hold the insurer responsible for failing to make the appropriate documents available to it during an examination.

COMMENT #4: The audit requirement set forth in subsection (2)(D) is too onerous.
RESPONSE #4 AND EXPLANATION OF CHANGE: The proposed amendment will be changed to require an insurer to satisfy itself, and provide documentation during an examination, that the insurer is content that the vendor or provider is conducting business in an appropriate manner. While the department does not agree with the comments received regarding the "audit" requirement, subsection (2)(D) of the proposed amendment will be changed to remove the requirement that an insurer perform an annual "audit." The department will amend subsection (2)(D) to include five (5) standards of review an insurer must rely upon when reviewing the functions of a vendor or service provider for clarification purposes.

20 CSR 300-2.200 Records Required for Purposes of Market Conduct Examinations

(1) Definitions.

(B) The term "business entity" shall mean a business entity as that term is defined in section 375.012.1(1), RSMo.

(C) The term "claim" shall mean a claim as that term is defined in 20 CSR 100-1.010(1)(B).

(D) The term "customary core functions" means the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process or providing any information or assistance used in claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process which have traditionally been performed by internal insurance company employees or producers.

(E) The term "department" shall mean the Missouri Department of Insurance.

(F) The term "examiner" shall mean a market conduct examiner authorized by the director to conduct an examination pursuant to section 374.202.2(4), RSMo.

(G) The term "inquiry" shall mean a specific question, criticism or request made in writing to an insurer by a market conduct examiner duly appointed by the director.

(H) The term "insurer" shall mean an insurer as that term is defined in sections 375.932 or 375.1002, RSMo.

(I) The term "policy" shall mean a policy as that term is defined in section 375.932(5), RSMo. The term "policy" shall also include any evidence of coverage issued by a health maintenance organization to an enrollee.

(J) The term "third party vendor or service provider" shall mean any person or entity not licensed under any of the insurance laws of the state of Missouri and participating for a fee or pursuant to a contract or mutual agreement with an insurer in the customary core functions of the business of insurance. Third party vendors or service providers will include individuals or entities providing medical review, claim evaluation, case management, property or automobile evaluation and assessment, credit reporting or credit scoring, claim reporting, or medical health reporting services or databases to an insurer, are not independently licensed under the insurance laws of the state of Missouri to provide said services and are not employees of an entity licensed under the insurance laws of the state of Missouri to provide said services.

(2) Records Required.

(A) Every insurer, licensed to do business in this state shall maintain its books, records, documents and other business records in a manner so that the following practices of the insurer may be readily ascertained during market conduct examinations: the insurer's compliance with the standards outlined in the *NAIC Market Conduct Examiners' Handbook*, including, but not limited to, company operations and management, policyholder service, marketing, producer licensing, underwriting, rating, termination, complaint/grievance handling and claims practices.

(B) Every insurer, licensed to do business in this state, shall provide in a written contract entered into with any and all third party vendors or service providers which perform any of the customary core functions on behalf of that insurer that the insurer will have access to or retain a copy of the books, records, documents, and other business records used or relied upon by the third party vendor or service provider with whom it contracts in the performance of the third party vendors' or service providers' performance of the customary core functions on behalf of that insurer.

(C) During an examination, the insurer shall provide, as requested, its written contract entered into with each third party vendor or service provider and such documents as set forth in subsection (2)(B) of this section within the time frames set forth in section (6) of this rule.

(D) Every insurer must monitor every third party vendor or service provider with whom it contracts so as to justify to itself that the methods and procedures used in the performance of the customary core functions are actuarially, statistically, medically, scientifically, or practically sound and accurate and performed for an appropriate business purpose, as applicable, and do not violate the laws of this state. The insurer must be able to produce documentation and otherwise demonstrate how it monitored and verified the accurateness, lawfulness, and appropriateness of the business practices performed by the third party vendor or service provider on its behalf within the time frames set forth in section (6) of this rule.

Title 20—DEPARTMENT OF INSURANCE
Division 400—Life, Annuities and Health
Chapter 5—Advertising

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 400-5.400 Replacement of Life Insurance and Annuities **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1372–1376). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received one (1) comment on the proposed amendment.

COMMENT: The comment suggested that the proposed amendment provide that Exhibit A notices permit either the term "agent" or the term "insurance producer" to be used, or that Exhibit A notices that continue to use the term "agent" be deemed approved without the need for filing for approval.
RESPONSE: Effective January 1, 2003, section 375.012, et seq. RSMo Supp. 2002, requires the term "insurance producer" to be used, replacing the terms "agent," "broker," and "agency." Therefore, the suggested changes to the proposed amendment will not be made.

Title 20—DEPARTMENT OF INSURANCE
Division 600—Statistical Reporting
Chapter 2—Credit Insurance

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 600-2.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1389–1390). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, subsection (1)(D) of this proposed amendment will be deleted to afford insurers flexibility to develop rates utilizing other methodologies that are not inconsistent with section 385.070, RSMo.

20 CSR 600-2.110 Revision of Life and Accident and Sickness Rates

(1) Regarding credit life insurance—

(A) It shall be presumed in any review of rates filed with the director that the benefits are reasonable in relation to the premium charged if the premium rates do not exceed the following:

1. Single premium rate—single life decreasing term credit life insurance—fifty-five cents (55¢) per annum per one hundred dollars ($100) of initial outstanding amount of insured indebtedness;

2. Single premium rate—single level term credit life insurance—one dollar and ten cents ($1.10) per annum per one hundred dollars ($100) of initial outstanding amount of insured indebtedness;

3. Monthly premiums—single life credit life insurance—ninety-two cents (92¢) per one thousand dollars ($1,000) of outstanding insured indebtedness;

4. Single premium-joint life (two (2) lives) decreasing term credit life insurance—ninety cents (90¢) per annum per one hundred dollars ($100) of initial outstanding amount of insured indebtedness; and

5. Monthly premium—joint life (two (2) lives) decreasing term credit insurance—one dollar thirty-eight cents ($1.38) per one thousand dollars ($1,000) of outstanding indebtedness;

(B) If the credit life insurance policy is of a type different than those described in subsection (1)(A), premium rates for this policy shall be actuarially consistent with the rates set forth in subsection (1)(A); and

(C) The presumption of reasonableness of premium rates stated in subsection (1)(A) is granted only when the credit life insurance contract—

1. Contains an incontestable clause for a period which shall not be in excess of two (2) years; and

2. Provides or offers coverage to all debtors regardless of age, or to all debtors not older than the applicable age limit, which shall not be less than attained age of seventy (70) years if the limit applies to the age when the insurance attaches, or not less than attained age of seventy-one (71) years if the limit applies to the age on the scheduled maturity date of the debt. Age limits, if used, must be clearly shown on the individual policies or group certificates.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 700-1.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1390–1391). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, subsection (1)(A) of this proposed amendment will be changed to replace the term "fire and allied lines," with the term "property" and deleting the term "general" for clarification purposes. Subsection (2)(C) of this proposed amendment will be changed to add a comma after the term "money order" for clarification purposes. Also, subsection (3)(E) of this proposed amendment will be re-numbered as section (6) to correct its placement within the proposed amendment.

20 CSR 700-1.010 Insurance Producers' Examination and Licensing Procedures and Standards

(1) Examination Procedures.

(A) Before an individual may be licensed to sell certain classes of insurance, s/he must first take and pass an examination testing both the individual's knowledge regarding the class(es) of insurance the individual proposes to sell and the individual's knowledge of the insurance statutes and regulations. The examination must be taken

and passed prior to submitting an application for a license to the Department of Insurance. The classes of insurance for which an examination is required prior to licensure are life insurance, accident and health insurance, property insurance, casualty insurance, and personal lines.

(2) Application Required.

(C) All fees must be paid by money order, cashier's check, company check or business entity check. No fee shall be refundable.

(3) Special Licenses.

(6) Personal Lines. A license to sell personal lines insurance shall be issued to any natural persons pursuant to section 375.018, RSMo, upon receipt of a completed examination, proof of passing score on examination, and a one hundred dollar ($100) application fee. A personal lines license shall authorize an individual to sell property and casualty insurance providing coverage for individuals and families for non-commercial purposes. An individual holding a personal lines license shall complete, during each two (2)-year period, the continuing education requirements for a property and casualty license as defined in section 375.020, RSMo.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director adopts a rule as follows:

20 CSR 700-1.025 Conduct of the Business of Insurance Over the Internet **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1393). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received two (2) comments on the proposed rule.

COMMENT: It was suggested that section (3) of the proposed rule be changed to state that the notice of the states in which an insurer is authorized or licensed may be provided by a link on the company's home webpage.
RESPONSE: If an insurer chooses to provide a link on the company's home webpage as suggested, such action would meet the requirements of section (3) of the proposed rule. Therefore, no changes to the proposed rule will be made.

COMMENT: It was suggested that section (3) of the proposed rule be changed to provide that an insurer may list the states in which it is not authorized or licensed to do the business of insurance, or, alternatively, state that it is licensed or authorized to do the business of insurance in all states, if applicable.
RESPONSE: If an insurer chooses to list the states in which it is not authorized or licensed to do the business of insurance, or, alternatively, state that it is licensed or authorized to do the business of insurance in all states, if applicable, as suggested, such action would meet the requirements of section (3) of the proposed rule. Therefore, no changes to the proposed rule will be made.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 700-1.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1395–1398). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, subsection (1)(A) of this proposed amendment will be changed to replace the phrase "approved by the director" with the term "used" and to replace the term "additional" with the term "other," and Exhibit A of this proposed amendment will be changed to delete the term "per" in paragraph 2 of Exhibit A for clarification purposes.

20 CSR 700-1.100 Producer Service Agreements

(1) Producer Service Agreements.

(A) The form set forth in Exhibit A is approved for use as specified in section 375.116, RSMo. Substantially equivalent forms may be used where they contain other provisions and do not affect the content of Exhibit A. The Producer Service Agreement, which is included herein, must be a separate document from any other form or contract.

Exhibit A
Missouri Producer Service Agreement

1. The undersigned insured hereby engages the services of _____, a licensed Missouri insurance producer, license #_____, for the purpose of securing, negotiating and procuring the placement of the following described insurance coverages and to assist the undersigned in the preparation of any and all applications, underwriting data, and other information required by an insurer for the purposes of issuing an insurance policy within this state. The insurance coverage requested is: *(Here describe in detail the coverage to be effected.)*

2. The undersigned insured authorizes the insurance producer to commit to a maximum premium of not more than _____ for the above-stated coverage(s). *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate maximum may be stated for each contract covered by this agreement.)*
The undersigned insured agrees to pay as compensation to the insurance producer, above and in addition to the commission received from the insurer, for the various services of the insurance producer, a fee of not more than $_____. *(If multiple contracts of insurance are to be procured for the same insured or prospective insured, a separate producer fee may be stated for each contract covered by this agreement.)*

3. A brief description of those services performed and not described in paragraph 1, above is:

_____

_____

_____

This agreement is in furtherance of section 375.116, RSMo, and Missouri Department of Insurance Regulation 20 CSR 700-1.100.

Dated: _____
(Insured)

Dated: _____
(Insurance Producer)

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 700-1.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1398–1399). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, section (2) of this proposed amendment will be changed to clarify the licensing requirements of the proposed amendment.

20 CSR 700-1.110 Licensing of Business Entity Insurance Producers

(2) Corporations, associations, partnerships, limited liability companies, limited liability partnerships, or other legal entities shall submit a copy of its Certificate of Good Standing as issued by the Missouri Secretary of State or a current certification from the state or federal agency governing the applicant's authority to do business that the applicant is then in good standing to do business. If the other licensed persons are conducting the business of insurance in their own names, no separate business entity producer license is required.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 700-1.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1399–1400). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received one (1) comment on the proposed amendment.

COMMENT: It was suggested that additional language be added to section (1) of the proposed amendment to make it clear that the obligation of insurers to notify the department of its producer appointment does not include the appointment of producers acting on behalf of purchasers.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment. Therefore, the proposed amendment will be changed accordingly.

20 CSR 700-1.130 Appointment and Termination of Insurance Producers

(1) As used in section 375.022, RSMo, appointment of an insurance producer means the earliest date on which an insurance company, or its authorized agent does any of the following:

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director amends a rule as follows:

20 CSR 700-1.140 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1400–1404). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received. However, subsection (2)(B) of this proposed amendment will be changed to add the term "insured" after the term "prospective" in one instance for clarification purposes. Section (7) of this proposed amendment will also be changed to correct a statutory citation.

20 CSR 700-1.140 Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions

(2) Document and Premium Handling Standards. When dealing with any personal insurance policy, every insurance producer shall comply with the following standards of promptness regarding securing and amending coverage, providing written evidence of insurance transactions and handling premiums, except to the extent these actions are the responsibility of the insurer. Where it is the insurer's responsibility to take these actions, this responsibility shall be delineated in a written document, a copy of which shall be retained by the licensee and available for examination by the department.

(B) Whenever an insurer requires additional information prior to issuing a new personal insurance policy, or prior to renewing, continuing or amending an existing policy, the insurance producer through whom the insured or prospective insured applied for or procured the coverage shall inform, at the earliest reasonable opportunity, the insured or prospective insured of the need for the additional information from the insured or prospective insured.

(7) Discipline. Violation by an insurance producer of the provisions of this regulation shall be deemed incompetent or untrustworthy behavior under section 375.141.1(8), RSMo, and shall constitute grounds for discipline of the licensee under that section or other applicable laws.

Title 20—DEPARTMENT OF INSURANCE
Division 700—Licensing
Chapter 1—Insurance Producers

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director adopts a rule as follows:

20 CSR 700-1.150 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2002 (27 MoReg 1404). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received three (3) comments on the proposed rule.

COMMENT: It was suggested that the posting requirement in the proposed rule be limited to insurance producer fees and insurance producer locations.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and is changing the rule accordingly.

COMMENT: It was suggested that the posting requirement in the proposed rule apply only to insurance producer-generated fees.
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and is changing the rule accordingly.

COMMENT: It was suggested that the fees disclosure provision be modified to allow that the disclosure can be made in writing on an itemized bill, an invoice or a policy application. It was also suggested that the language in subsection (1)(A) and section (2) of the proposed rule be modified to clarify when incidental fees may be charged. It was also suggested that the proposed rule be modified to clarify what types of fees are authorized as "incidental fees."
RESPONSE AND EXPLANATION OF CHANGE: The department agrees with these comments and is changing the rule accordingly.

20 CSR 700-1.150 Incidental Fees Charged by Insurance Producers

(1) As used in sections 375.052 and 379.356.2, RSMo, and in these rules—

(A) "Incidental fee" means an amount equal to the cost of providing a service that is charged in addition to the receipt of premium from an insured or an applicant for insurance.

(B) "Other similar services" includes payment by credit card, processing insufficient funds checks, obtaining records, reports, appraisals, inventories and other like documentation and making regulatory filings for an insured or applicant for insurance.

(2) In order to charge an incidental fee, the insurer or insurance producer is required to actually perform a service or incur a cost.

(3) Incidental fee shall include a charge for premium installments, late payments, policy reinstatements or other similar services. In the case of the fee for permitting insureds or applicants for insurance to make a premium payment by credit card, the insurer or insurance producer shall charge only the amount charged to the insurer or insurance producer by the credit card company. Any other fees not considered incidental fees shall only be charged by an insurance producer when there is in place a written contract between the insured or applicant for insurance and the insurance producer as permitted in section 375.116, RSMo, 20 CSR 700-1.100 and the form attached thereto as Exhibit A.

(4) All incidental fees charged by the insurer or insurance producer shall be disclosed in writing to the insured or the applicant for insurance at or before the time the fee is charged. The insurer or insurance producer charging the fee shall provide to the insured or applicant for insurance a written disclosure. The disclosure may be contained in an itemized bill, invoice or an application that sets out the amount of the fee and the service for which it is being charged.

(5) The amount of the incidental fees charged by the insurance producer shall be posted conspicuously at any location wherein the insurance producer markets or negotiates the sale or renewal of insurance policies with insureds or applicants for insurance.

(6) All incidental fees charged to the insured or applicant for insurance by the insurer shall be considered premium for purposes of the premium tax imposed pursuant to section 148.320, RSMo.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 100—Division of Credit Unions

ACTIONS TAKEN ON APPLICATIONS FOR NEW GROUPS OR GEOGRAPHIC AREAS

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the director has either granted or rejected applications from the following credit unions to add new groups or geographic areas to their membership and state the reasons for taking these actions.

The following applications have been granted. These credit unions have met the criteria applied to determine if additional groups may be included in the membership of an existing credit union and have the immediate ability to serve the proposed new groups or geographic areas. The proposed new groups or geographic areas meet the requirements established pursuant to 370.080(2), RSMo 2000.

Credit Union	Proposed New Group or Geographic Area
Alliance Credit Union 575 Rudder Road Fenton, MO 63026	Those who work or reside in St. Charles County or St. Louis County.
St. Louis Postal Credit Union 6300 S. Lindbergh St. Louis, MO 63123-7804	Those who live or work in the following zip codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County.

OFFICE OF ADMINISTRATION
Division of Purchasing

BID OPENINGS

Sealed Bids will be received by the Division of Purchasing, Room 630, Truman Building, PO Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: www.moolb.state.mo.us.

B3E03130 Trash Collection Services 1/20/03
B1E03125 Digital Plate Maker 1/21/03
B1E03133 Mass Spectrometer & Optical Spectrometer 1/21/03
B1E03162 Advanced Portable Detectors 1/21/03
B3E03115 Unarmed Security Guard Services 1/21/03
B3Z03112 Publication Design, Production & Printing 1/21/03
B1E03159 Ammunition 1/22/03
B1E03169 LIDAR Radars 1/22/03
B3Z03134 Broadcast Placement Services - Radio & TV Ads 1/22/03
B1E03163 Vests: Ballistic Protection NIJ Level II 1/27/03
B1E03171 CDS Set 1/28/03
B3E03041 Records Acquisition 1/28/03
B3Z03117 Chemical Analysis 2/7/03
B3Z03072 Point-of-Purchase (POP) Services 2/11/03
B3Z03105 HIV Client Services Administration 2/18/03

It is the intent of the State of Missouri, Division of Purchasing to purchase each of the following as a single feasible source without competitive bids. If suppliers exist other than the ones identified, please call (573) 751-2387 immediately.

1.) Joint Commission of Accreditation of Healthcare Organizations (JCAHO) Technical Assistance
2.) MEDIGAP Monitoring Demonstration Grant Services
3.) Patrol Enterprise Software Maintenance

James Miluski, CPPO,
Director of Purchasing

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—26 (2001), 27 (2002) and 28 (2003). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724
1 CSR 15-3.200	Administrative Hearing Commission	27 MoReg 2259	27 MoReg 2266		
1 CSR 20-1.040	Personnel Advisory Board and Division of Personnel		27 MoReg 1861		
1 CSR 20-2.015	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-4.020	Personnel Advisory Board and Division of Personnel		27 MoReg 1861		
1 CSR 20-5.010	Personnel Advisory Board and Division of Personnel		27 MoReg 1865		
1 CSR 20-5.020	Personnel Advisory Board and Division of Personnel	27 MoReg 847	27 MoReg 1865		
1 CSR 40-1.090	Purchasing and Materials Management		27 MoReg 1107 28 MoReg 8		
	DEPARTMENT OF AGRICULTURE				
2 CSR 30-2.012	Animal Health	27 MoReg 1439			
2 CSR 70-40.015	Plant Industries	27 MoReg 1561R 27 MoReg 1561			
2 CSR 70-40.025	Plant Industries	27 MoReg 1562R 27 MoReg 1563			
2 CSR 70-40.040	Plant Industries	27 MoReg 1563R 27 MoReg 1563			
2 CSR 70-40.045	Plant Industries	27 MoReg 1564			
2 CSR 90-10.040	Weights and Measures	27 MoReg 1161			
2 CSR 90-20.040	Weights and Measures	27 MoReg 1559	27 MoReg 1564	28 MoReg 49	
2 CSR 90-22.140	Weights and Measures	27 MoReg 1868			
2 CSR 90-23.010	Weights and Measures	27 MoReg 1868			
2 CSR 90-25.010	Weights and Measures	27 MoReg 1869			
2 CSR 90-30.040	Weights and Measures	27 MoReg 1559	27 MoReg 1565	28 MoReg 49	
2 CSR 90-30.050	Weights and Measures	27 MoReg 1565			
2 CSR 90-36.010	Weights and Measures	27 MoReg 2053R 27 MoReg 2053			
2 CSR 90-36.020	Weights and Measures	27 MoReg 2058R			
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3 CSR 10-4.111	Conservation Commission		27 MoReg 1765	27 MoReg 2303	
3 CSR 10-4.130	Conservation Commission		27 MoReg 971	27 MoReg 1478F	
3 CSR 10-4.141	Conservation Commission		27 MoReg 972	27 MoReg 1478F	
3 CSR 10-5.205	Conservation Commission		27 MoReg 972	27 MoReg 1478F	
3 CSR 10-5.215	Conservation Commission		27 MoReg 973	27 MoReg 1478F	
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3 CSR 10-5.351	Conservation Commission		27 MoReg 1186	27 MoReg 1997F	
3 CSR 10-5.359	Conservation Commission		27 MoReg 1188	27 MoReg 1997F	
3 CSR 10-5.360	Conservation Commission		27 MoReg 1190	27 MoReg 1998F	
3 CSR 10-5.460	Conservation Commission		27 MoReg 974	27 MoReg 1479F	
3 CSR 10-5.465	Conservation Commission		27 MoReg 975	27 MoReg 1479F	
3 CSR 10-6.410	Conservation Commission		27 MoReg 978	27 MoReg 1481F	
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3 CSR 10-7.455	Conservation Commission		27 MoReg 980	27 MoReg 1482F	28 MoReg 55
3 CSR 10-8.510	Conservation Commission		27 MoReg 981	27 MoReg 1482F	27 MoReg 1902
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3 CSR 10-9.110	Conservation Commission		27 MoReg 982	27 MoReg 1483F	
3 CSR 10-9.220	Conservation Commission		27 MoReg 983	27 MoReg 1483F	
3 CSR 10-9.351	Conservation Commission		27 MoReg 986	27 MoReg 1483F	
3 CSR 10-9.353	Conservation Commission		27 MoReg 986	27 MoReg 1483F	
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3 CSR 10-9.359	Conservation Commission		27 MoReg 986	27 MoReg 1484F	
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3 CSR 10-9.575	Conservation Commission		27 MoReg 988	27 MoReg 1484F	
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4 CSR 30-3.050	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2127		
4 CSR 30-4.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2128		
4 CSR 30-4.020	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2128R		
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4 CSR 30-5.150	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2135		
4 CSR 30-9.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2135R		
4 CSR 30-10.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2135		
4 CSR 30-11.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		27 MoReg 2139		
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4 CSR 150-4.220	State Board of Registration for the Healing Arts		27 MoReg 1568	28 MoReg 49	
4 CSR 150-5.100	State Board of Registration for the Healing Art		27 MoReg 2146		
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4 CSR 196-2.020	Landscape Architectural Council		27 MoReg 2147R		
4 CSR 196-2.030	Landscape Architectural Council		27 MoReg 2147R		
4 CSR 196-2.040	Landscape Architectural Council		27 MoReg 2148R		
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4 CSR 196-4.010	Landscape Architectural Council		27 MoReg 2148R		
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4 CSR 205-3.040	Missouri Board of Occupational Therapy		27 MoReg 2152		
4 CSR 205-3.050	Missouri Board of Occupational Therapy		27 MoReg 2152		
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4 CSR 205-5.010	Missouri Board of Occupational Therapy		27 MoReg 2153		
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4 CSR 220-2.020	State Board of Pharmacy		28 MoReg 9		
4 CSR 220-2.025	State Board of Pharmacy		27 MoReg 1270	27 MoReg 2304	
4 CSR 220-2.030	State Board of Pharmacy		27 MoReg 1270 27 MoReg 2268	27 MoReg 2304	
4 CSR 220-2.050	State Board of Pharmacy		27 MoReg 1271	27 MoReg 2304	
4 CSR 220-2.100	State Board of Pharmacy		27 MoReg 1271	27 MoReg 2304	
4 CSR 220-2.190	State Board of Pharmacy		27 MoReg 2268		
4 CSR 220-2.200	State Board of Pharmacy		28 MoReg 10R 28 MoReg 10		
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4 CSR 220-2.700	State Board of Pharmacy		27 MoReg 2268		
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4 CSR 232-3.010	Missouri State Committee of Interpreters		27 MoReg 2269		
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4 CSR 240-3.010	Public Service Commission		27 MoReg 1578		
4 CSR 240-3.015	Public Service Commission		27 MoReg 1580		
4 CSR 240-3.020	Public Service Commission		27 MoReg 1580		
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4 CSR 240-3.030	Public Service Commission		27 MoReg 1581		
4 CSR 240-3.100	Public Service Commission		27 MoReg 1582		
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4 CSR 240-3.640	Public Service Commission		27 MoReg 1636		
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4 CSR 240-31.010	Public Service Commission		27 MoReg 2159		
4 CSR 240-31.050	Public Service Commission		27 MoReg 2160		
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4 CSR 240-31.065	Public Service Commission		27 MoReg 2166		
4 CSR 240-32.030	Public Service Commission		27 MoReg 1647R		
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4 CSR 240-40.010	Public Service Commission		27 MoReg 1648R		
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4 CSR 255-4.010	Missouri Board for Respiratory Care		27 MoReg 1276	27 MoReg 2304	
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4 CSR 265-2.100	Division of Motor Carrier and Railroad Safety	27 MoReg 2261	27 MoReg 2271		
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4 CSR 265-2.115	Division of Motor Carrier and Railroad Safety	27 MoReg 2262	27 MoReg 2271		
4 CSR 265-2.116	Division of Motor Carrier and Railroad Safety	27 MoReg 2262	27 MoReg 2272		
4 CSR 265-2.120	Division of Motor Carrier and Railroad Safety	27 MoReg 2262	27 MoReg 2272		
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4 CSR 265-4.010	Division of Motor Carrier and Railroad Safety	27 MoReg 2264	27 MoReg 2273		
4 CSR 265-4.020	Division of Motor Carrier and Railroad Safety	27 MoReg 2264	27 MoReg 2274		
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4 CSR 267-6.030	Office of Tattooing, Body Piercing and Branding		27 MoReg 1687	28 MoReg 53	
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5 CSR 80-800.220	Teacher Quality and Urban Education		27 MoReg 1690		
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5 CSR 80-800.360	Teacher Quality and Urban Education		27 MoReg 1702		
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5 CSR 80-800.380	Teacher Quality and Urban Education		27 MoReg 1768		27 MoReg 2017
5 CSR 80-805.015	Teacher Quality and Urban Education		27 MoReg 1950		
5 CSR 80-805.040	Teacher Quality and Urban Education		27 MoReg 1950		
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